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CHAPTER 10

UTILITIES

SECTION 10.100 GENERAL WATER AND SEWER SYSTEM POLICIES

10.101 CONNECTION TO AVAILABLE SEWER AND WATER LINE REQUIRED WITHIN NINETY DAYS; TOILET FACILITIES REQUIRED

- (1) Each property owner owning a lot or Plot of ground in the City of Round Rock, Texas on which there is located a house or dwelling occupied or capable of being occupied by human beings and which lot or plot of ground is capable of connecting to a city sewer or water line by construction of two hundred (200) feet or less of sewer or water line is hereby required to connect such house or dwelling to such sewer and water lines at their expense within ninety (90) days from the time the sewer or water service is available. Each said property owner is further required to equip such house or dwelling with toilet facilities and keep said toilet facilities connected at all times with the city sewer and water lines and the occupants of the house or dwelling shall at all times use the sewer and water facilities of the city.
- (2) Each property owner owning a lot or plot of ground in the City of Round Rock, Texas on which is located a building or structure containing toilet facilities and which lot or plot of ground is capable of connecting to a city sewer or water line by construction of two hundred (200) feet or less of sewer or water line is hereby required to connect such building or structure to such sewer and water lines at their expense within ninety (90) days from the time the sewer or water service is available. Each said property owner is further required to keep any toilet facilities in any building or structure connected at all times with the city sewer and water lines and the users of said building or structure shall at all times use the sewer and water facilities of the city.
- (3) The city council may, by resolution, waive the requirements to connect to the city sewer or water lines when physical constraints would result in extraordinary cost to connect to such lines.

(Ordinance No. 2257 of November 13, 1986)

10.102 WATER AND SEWER SYSTEM REQUIREMENTS TO ELIMINATE INFILTRATION AND CONTAMINATION FROM FLOODING

The authorized building official of the City of Round Rock shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(Ordinance No. 257 of March 13, 1975)

Cross Reference: See also Section 3.1000 Flood Damage Prevention Regulations and Section 8.614, Flood Regulation.

10.103 FURNISHING OF WATER AND SEWER
SERVICES OUTSIDE CITY LIMITS

(1) Conditions Under Which City Services Will Be Provided

The City of Round Rock, Texas, shall furnish water or sewer services to residential and commercial users located outside the city limits of the City of Round Rock, Texas, only upon the following conditions:

(a) Adequate Capacity Exists

There is adequate capacity of city services available for the purpose of servicing residential and commercial users outside the city without impairing services within the city. Whether such adequate capacity exists shall be determined solely by the city council of the City of Round Rock, Texas, and the determination of the city council shall be final.

(b) Owners Outside City Limits to Bear Costs
of Lines and Furnish Easements

The construction costs of water and sewer lines and appurtenances which serve residential and commercial users outside the city limits shall be paid for by the owner, developer, or political entity requesting the service. Such owner, developer, or political entity shall also furnish suitable construction and permanent easements and rights-of-way for utility lines.

(c) Construction to Conform to City Standards

All design and construction shall be in accordance with city standards and specifications.

(Ordinance No. 269 of January 8, 1976)

(d) New Subdivisions to Comply
with Subdivision Regulations

New subdivisions (any plat recorded after the date of passage of this section) desiring city water and sewer services shall comply with the subdivision regulations of the City of Round Rock, Texas, in effect at the time such new subdivision is approved. Existing subdivisions whose plats were recorded with the County Clerk of Williamson County, Texas, at

the time of the passage of the original Ordinance No. 269 (January 8, 1976) can be furnished with water and sewer services without the necessity of having sanitary sewer collection and treatment facilities.

(Ordinance No. 271 of January 15, 1976)

(e) City to Have Right of Review

The city shall have the right to review and approve all plats and plans and inspect and approve all water and sewer construction within subdivisions where water and/or sewer service is to be provided.

(Ordinance No. 269 of January 8, 1976)

(f) Water and Sewer Facility Requirements

Except as provided in paragraph (d) above, all residential and commercial users shall have sanitary sewer collection and treatment facilities. Water will not be provided to residential and commercial users who utilize septic tanks save and except water can be provided to subdivisions whose plats were recorded with the County Clerk of Williamson County, Texas, at the time original Ordinance No. 269 was adopted (January 8, 1976).

(Ordinance No. 271 of January 15, 1976)

(g) Water and Sewer Lines To Meet
Ultimate Requirements of City

Where water or sewer lines and appurtenances are extended outside the city limits, the lines shall be sized to serve the ultimate requirements of the City of Round Rock.

(h) Extended Lines To Be Designed
and Inspected by City's Engineer

All water and sewer lines and appurtenances extending from existing city facilities to any tract of land outside the city limits requesting water and/or sewer service shall be designed and inspected by the City of Round Rock's engineer. The owner, developer, or political entity requesting the service shall pay for these services in keeping with the current contract between the City of Round Rock and the engineer employed by the City of Round Rock.

(i) City May Reimburse Owner For Oversized Lines

Where the size of the water or sewer lines required to meet the ultimate requirements for the City of Round Rock is larger than eight (8) inches

and the total capacity is not required to serve the tract of land to be developed, the city may enter into a contract with the owner, developer, or entity constructing the lines for reimbursement for the excess capacity as other users request and are granted service. The developer or entity requesting service from an existing line shall pay a tap fee on a pro rata basis, as hereinafter set forth. The reimbursement to the owner, developer, or entity who paid for the line construction shall be made only from those tap fees paid to the city by users of the facility paid for by the said owner, developer, or entity.

(j) Pro Rata Basis for Tap Fee

The pro rata basis for the tap fee shall be computed based upon the required demand for use and the fire protection as specified by the engineering criteria approved by the city's engineer. The basis for cost shall be the actual total cost of the facility plus five (5) percent interest. The total cost shall include, but shall not be limited to, construction costs, engineering costs, and inspection costs.

(k) Wholesale Bulk Rate Sales of Water

Facilities constructed and paid for by another public entity or facilities which will later be acquired by a public entity may be owned, operated, and maintained by that entity. Such facilities shall purchase water from the City of Round Rock at a negotiated wholesale bulk rate. The city shall own, operate, and maintain all other facilities.

(2) Rates

The rates paid by residential and commercial users located outside the city limits of the City of Round Rock for the use of the water and sewer facilities of the City of Round Rock, shall be in accordance with Section 10.201(5) of this Chapter.

(Ordinance No. 269 of January 8, 1976)

10.104 REPAIR OF SEWER AND WATER
SERVICE LINES ON PRIVATE PROPERTY

All sewer and water service lines on private property from the city's main lines to the premises, including all connections, shall be installed, maintained, and repaired at the expense of the property owners. All leaks and other defects in the same shall be promptly repaired by the property owners. If required repairs are not completed within ten (10) days after written notice is mailed or hand delivered to the premises, water service to the premises shall be terminated and shall not be restored until the repairs are made and all applicable fees and expenses paid. Any expenditures incurred by the city because of said leaks or defects shall be charged against the property owners, and must be paid before water service is restored.

(Ordinance No. 2331 of March 24, 1988)

10.105 DEFINITIONS

For the purposes of this Chapter, the following words, terms and phrases, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

- (1) City shall mean the City of Round Rock, Texas.
- (2) Commission shall mean the Texas Commission on Environmental Quality or any successor agency.
- (3) Customer shall refer to the Person who has applied for and through such application agrees to undertake primary responsibility toward the City to ensure compliance with the City's ordinances, rules and regulations dealing with utilities. The term includes agents, attorneys-in-fact, or representatives of such Person.
- (4) Director shall mean the Director of Utilities for the City or his/her designee.
- (5) Person shall mean any individual, firm, association of individuals, club, trustee, receiver, utility district, partnership or corporation, including a public, private or municipal corporation, and political subdivision.

(Ordinance No. G-05-09-08-10A1 of September 8, 2005)

SECTION 10.200 WATER AND SEWER RATES AND UTILITY BILLING POLICIES10.201 WATER

- (1) Meters Required
 - (a) All premises using the City water supply must be equipped with an adequate water meter furnished by the City but paid for by the Customer. Before any premises are occupied, a water meter shall be installed therein as herein required.
 - (b) Any Person using the City water supply in violation of this Subsection shall be deemed guilty of a misdemeanor.
- (2) Installation and Maintenance
 - (a) Meters shall be installed in a location that will be easy to access.
 - (b) The meter box shall be maintained by the Customer to ensure that no obstacle will hinder or prevent adequate access to the meter for reading and servicing. Adequate access is a condition precedent to the receipt of utility services from the City and a requirement for continued service. "Adequate access" for purposes of this Section shall be defined as the ability of an authorized City representative to get to a meter without visual aids, without the presence of the Customer or without threat of bodily

injury and must not be hindered by shrubs, trees, locked gates or any other obstruction. No authorized City representative shall be denied access to a meter.

(3) Reading Meters

The City shall read or cause to be read every water meter used in the City at such times as are necessary that the bill may be sent out at the proper time. No Person shall cause interference with reading a meter by building, installing or planting any obstacle that would prevent access to a meter temporarily or permanently. If an obstacle prevents the meter from being read, a fee as set forth in Subsection 17 shall be charged to the water bill as a re-read fee. Should an authorized City representative be unable to have adequate access more than three (3) times, the City shall notify Customer, in writing, of such obstruction and give Customer ten (10) days to provide adequate access. The City may, at its option, relocate the meter and charge Customer for the actual costs of relocating the meter. Failure to comply within the ten (10) day period shall be grounds for termination of service and Customer shall be charged the fee set forth in Subsection 16.

(4) Testing Meters

Any Customer requesting the municipal water meter to be tested shall pay, as a fee, the actual cost of testing the meter by a third party licensed meter tester. The City will retain the fee if the meter is within three percent (3%) of being accurate. If the meter is not within three percent (3%) of being accurate, it shall be repaired or replaced and the fee returned to the Customer or credited on the Customer's account.

(5) Right of Entry

Any employee of the City bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling, meter reading and testing.

(Ordinance No. 522 of January 26, 1978 as amended by Ordinance No. G-05-09-08-10A1 of September 8, 2005)

(6) Water Rates for Retail Customers

(a) Except as provided below, the following schedule of monthly rates or charges for retail commercial and residential services furnished by the city's water system shall be and such is hereby adopted and established as follows:

(i) Volume Rates

1. The water rate for retail customers shall be \$1.96 per 1,000 gallons of water used by all customers.

2. Effective January 1, 2006, the water rate for retail Customers shall be \$2.02 per 1,000 gallons of water used.

(Ordinance No. G-04-09-23-12A3 of September 23, 2004 as amended by Ordinance No. G-05-09-08-10A1 of September 8, 2005 and Ordinance No. G-05-10-13-9B1 of October 13, 2005)

(ii) Monthly Service Charge

Except as provided below, in addition to the foregoing rates, each Customer shall also pay a monthly water service charge pursuant to the following schedule regardless of the amount of water used.

<u>Meter Size</u>	<u>Current Monthly Service Charge</u>	<u>Monthly Service Charge Effective January 1, 2006</u>
5/8 inch	\$11.72	\$ 11.95
3/4 inch	16.33	16.66
1 inch	25.78	26.30
1½ inch	49.40	50.39
2 inch	77.75	79.31
3 inch	143.90	146.78
4 inch	238.40	243.17
6 inch	758.15	758.15
8 inch	1,325.15	1,325.15
10 inch	2,081.15	2,081.15
12 inch	2,553.65	2,553.65

(Ordinance No. 2507 of October 11, 1990 as amended by Ordinance No. G-99-09-23-9A3 of September 23, 1999, Ordinance No. G-04-09-23-12A3 of September 23, 2004, Ordinance No. G-05-09-08-10A1 of September 8, 2005, and Ordinance No. G-05-10-13-9B1 of October 13, 2005)

(iii) Medicaid Exemption Discontinued after October 1, 2005.

Except as provided in (iv) below, on and after October 1, 2005 the monthly water service charge exemption for head of household residents eligible for Medicaid benefits will be discontinued.

(iv) Exemption for Current Recipients.

For residential service located within the corporate City limits where the head of the household is eligible for Medicaid benefits, and if said resident head of household was receiving the Medicaid exemption from the monthly water service charge prior to October 1, 2005, and if said resident head of household re-applies for said exemption between October 1 and October 30 of each year, then the exemption from paying the monthly water service

charge shall continue until the head of the household is no longer eligible for Medicaid benefits, as determined by federal guidelines and as administered by the State of Texas.

(v) Unlawful acceptance of exemption or discount.

It shall be unlawful for any Person to apply for and/or receive a water rate discount or exemption from the monthly water service charge if such Person is not eligible to receive said discount or exemption.

(b) Outside City Limits

The above water rates and service charges apply to all Customers located within the corporate limits of the City. All Customers located outside of the corporate limits of the City shall pay double the applicable rates charged Customers within the corporate limits of the City, unless a different rate is approved by the Council pursuant to a contractual agreement.

(Ordinance No. 974 of October 28, 1982 as amended by Ordinance No. G-02-03-14-12A1 of March 14, 2002 and Ordinance No. G-05-09-08-10A1 of September 8, 2005)

(c) Age 65 and Older

(i) Discounts Discontinued after June 10, 1993.

Except as provided below, on and after June 10, 1993 the water rate discount for head of household residents 65 years of age and older will be discontinued. All head of household residents 65 years of age and older actually receiving said discounts prior to June 10, 1993 shall continue to receive said discounts as stated in this section, so long as they re-apply for said discounts before October 30 of each year.

(ii) Discounts for Current Recipients.

For residential service located within the corporate city limits where the head of the household has attained the age of sixty-five (65), and if said resident head of household was receiving water rate discounts prior to June 10, 1993, and if said resident head of household re-applies for said discounts between October 1 and October 30 of each year, then the following schedule of monthly rates or charges for services furnished by the city's water system shall be and such is hereby adopted and established as follows:

<u>Rate</u>	
<u>Number of Gallons of Water Used</u>	<u>Monthly Water Rates</u>
1 - 20,000 gallons.	\$1.20 per 1,000 gallons
20,000 gallons to.	\$1.45 per 1,000 gallons
75,000 gallons.	used exceeding 20,000 gallons up to 75,000 gallons
Use exceeding 75,000.	\$1.70 per 1,000 used gallons exceeding 75,000 gallons

Monthly Charge

Except as provided below, in addition to the foregoing rates, each Customer shall also pay a monthly water service charge of \$5.50 regardless of the amount of water used.

(Ordinance No. 2173 of April 25, 1985 as amended by Ordinance No. G-93-06-10-8G of June 10, 1993)

(7) Water Rates and Permit Fees for Bulk Users

<u>Fire Hydrant Meter Size</u>	<u>Monthly Base Rate</u>
5/8 inch	\$ 75.00
1 inch	100.00
3 inch	150.00

The volume charge will be the rate per 1,000 gallons established under Section 10.201(6)(a)(i) Rates.

(Ordinance No. 2275 of March 12, 1987 as amended by Ordinance No. G-99-09-23-9A3 of September 23, 1999 and Ordinance No. G-05-09-08-10A1 of September 8, 2005)

(8) Rates for Water Service To Brushy Creek Municipal Utility District

- (a) The rate for water service to Brushy Creek Municipal Utility District ("BCMUD") shall consist of a Volumetric Rate and a Monthly Excess Capacity Charge, both of which are due and payable on a monthly basis.
- (b) The Volumetric Rate for water is \$0.93 per 1,000 gallons of water delivered.

- (c) The Monthly Excess Capacity Charge shall be determined by multiplying the Monthly Excess Capacity Rate by BCMUD's Excess Capacity. The Monthly Excess Capacity Rate is \$15,117 per million gallons per day (MGD) of Excess Capacity. The Excess Capacity shall be equal to BCMUD's peak day usage expressed in MGD less BCMUD's annual average day usage.

(Ordinance No. 2440 of December 28, 1989 as amended by Ordinance No. 2595 of September 24, 1992 and Ordinance No. G-93-09-23-9E of September 23, 1993)

(9) Rates for Water Service To Williamson County Municipal Utility District No. 9.

- (a) The rate for water service to Williamson County Municipal Utility District No. 9 ("District") shall consist of a volumetric rate and a monthly base charge per connection to the water system.
- (b) The volumetric rate for water is \$1.76 per 1,000 gallons of water delivered.
- (c) The District shall pay a monthly base charge for each separate connection to the water system according to the size of the meter as follows:

<u>Meter Size</u>	<u>Monthly Base Charge</u>
5/8 inch	\$10.52
3/4 inch	\$14.25
1 inch	\$21.70
1½ inch	\$40.32

(Ordinance No. G-93-04-22-8B of April 22, 1993 as amended by Ordinance No. G-05-09-08-10A1 of September 8, 2005)

(10) Water Service, Inspection and Meter Setting Fees

(a) Water Inspection and Meter Setting Fee

Each applicant for a plumbing permit, whether for new construction or otherwise, shall at the time the permit is issued, pay a water inspection and meter setting fee of one hundred dollars (\$100.00) for each water tap utilizing a standard size water meter. As used herein, "standard size water meter" means either a five-eighths ($\frac{5}{8}$) inch or a three fourths ($\frac{3}{4}$) inch meter. In the event a water tap requires a nonstandard size water meter, the water inspection and meter setting fee shall be one hundred dollars (\$100.00) plus the difference in actual cost of the water meter required and the actual cost of a standard size meter.

(b) Fees for Water Service Outside City Limits

Applicants for water service outside the city limits shall pay the same water fees as set forth above. Applicants who are otherwise required by contract to obtain building permits shall pay the fees when a permit is issued. Other applicants shall pay the fees when water service is requested.

(Ordinance No. 2476 of June 14, 1990 as amended by Ordinance No. G-95-01-26-9B of January 26, 1995)

(11) Tampering with Meters and Lines Prohibited

Whoever by any means or device prevents water from passing through any meter belonging to the City, or prevents any meter used in connection with the supply of water to any Customer by the City from registering the amount of water passing through such meter, or prevents a meter from duly registering the quantity of water supplied or in any way interferes with its proper action of just registration, or without the consent in writing of the Director, diverts any water from any pipe of the City's, or otherwise uses, or causes to be used, without the consent of the Director, any water produced or distributed by the City, or retains possession of, or refuses to deliver any meter, materials or equipment belonging to the City, regardless of how it came into his possession, shall be in violation of this Section. The presence at any time on or about any such meter or pipe or any device or pipes resulting in the diversion of water or prevention of its free passage and registration by the meter, or resulting in the diversion from the meter as above defined, or resulting in the prevention of water reaching the meter, or resulting in the prevention of the just registration of the meter or meters or the taking of any water except through a meter as above set forth, shall constitute prima facie evidence on the part of the Person owning or having custody and control of the room, building, place or premises where such device or pipe is, or knowledge of the existence thereof and knowledge of such existence to the Person who would be benefitted by the failure of the water to be properly metered, and shall further constitute prima facie evidence of intention on the part of such Person to defraud, and shall bring such Person prima facie within the scope, meaning, and penalties of this Subsection.

(12) Tampering with Hydrants and Other System Apparatus

- (a) It shall be unlawful for any person, except a member of the fire department, or employee of the City, to open or use water from a fire hydrant, or to take off the cap without permission from the City.
- (b) It shall be unlawful for any person, individually or in association with others, to willfully break, injure or tamper with any part of the City's system for any purpose whatsoever, or in any manner to maliciously interfere with or prevent the running and operation of the system and the water supply therein.

(13) Responsibility for Water Leakage and Use; Discontinuance of Service

The Customer shall be held responsible as consumers for loss of water and property damage due to leakage in pipes or plumbing inside the discharge side of the meter or on the Customer's property, and if this water is not paid for according to the rates provided when it becomes due, the water shall be cut off by the City and not turned on again until all charges and fees are paid and proof provided that the leak has been repaired. The City may consider an adjustment if the Customer presents a plumber's statement indicating that the leak was not reasonably detectable from the surface, the leak has been repaired and the type of repairs made. The City may request additional information before adjusting the Customer's bill. The Customer may receive only one adjustment during a twelve (12) month period, unless the Director determines that extenuating circumstances justify allowing additional adjustments.

(14) Customer Assents to Chapter Provisions

All of the provisions of this chapter shall be deemed to be incorporated in every contract between the City and its Customers, and each Customer shall be charged with knowledge of the provisions of this chapter and, by applying and accepting water from the City, to have assented to the provisions hereof.

(Ordinance No. 736 of January 24, 1980 as amended by (Ordinance No. G-05-09-08-10A1 of September 8, 2005)

(15) Deposits for Water Service

- (a) Upon making application for water service the Customer shall pay a water deposit as hereinafter set forth. Said deposit shall be refunded to the Customer when:
 - (i) service is cancelled; provided, however, that any unpaid charges shall first be deducted from the deposit; or
 - (ii) for residential Customers only, when Customer shall have twelve (12) consecutive months of good payment history.
- (b) Residential Customers shall pay a water deposit in the amount of One Hundred Dollars (\$100.00) per residential dwelling unit.
- (c) The applicable deposit for water service set forth above is required of any water Customer, regardless of payment history, if water service has been discontinued for nonpayment or meter tampering. Residential Customers shall thereafter be entitled to a satisfactory payment history deposit refund upon the completion of the required one-year continuous, satisfactory payment history, as computed from the date of reconnect, in accordance with the provisions of this Subsection.
- (d) All non-residential Customers shall pay a water deposit according to the size of meter serving the premises pursuant to the following schedule:

<u>Meter Size</u>	<u>Deposit</u>
5/8 inch	\$100.00
3/4 inch	\$100.00
1 inch	\$100.00
1½ inch	\$150.00
2 inch and larger	\$100.00 per inch or fraction thereof

- (e) Bulk water Customers shall pay a meter deposit in accordance with the following schedule:

<u>Fire Hydrant Meter Size</u>	<u>Deposit</u>
5/8 x 3/4 inch	\$100.00
1 inch	\$150.00
3 inch	\$700.00

(16) Water and Sewer Service Connection and Transfer Fees

- _____ (a) Upon making application for water and/or sewer service the Customer shall pay a water and sewer service connection fee of Twenty-five Dollars (\$25.00).
- (b) Upon making application to transfer an existing water and/or sewer service account to a new address, the Customer shall pay a water and sewer service transfer fee of Twenty-five Dollars (\$25.00).
- (c) If a Customer requests service after normal business hours or same-day service, a water and sewer service connection fee of Seventy-five Dollars (\$75.00) shall be paid by the Customer. Normal business hours means weekdays from 8:00 a.m. to 6:00 p.m., excluding City holidays.

(Ordinance No. G-06-11-09-10B2 of November 9, 2006)

- (d) Bulk water Customers that require a fire hydrant meter to be relocated within the same job site or another job site shall pay a Forty-five Dollars (\$45.00) fee for each time that the meter is relocated.

(17) Additional Service Trips

If additional meter service trips are required, including re-reads and trips for collection of outstanding charges, fees or penalties, the Customer shall pay an additional trip fee in the amount of Twenty-five Dollars (\$25.00) for each additional trip made to the location. If any service trips are caused by the City's error, the Customer will not be charged such additional trip fee.

(Ordinance No. 2592 of September 24, 1992 as amended by Ordinance No. G-05-09-08-10A1 of September 8, 2005)

10.202 SEWER(1) Sewer Rates for Retail Customers(a) Inside City Limits:

The rate schedule for retail Customers of the City's sanitary sewer System shall be hereinafter set forth.

(i) Volume Rates

1. The sewer rate for retail Customers shall be \$2.48 per 1,000 gallons of water used for all users.
2. Effective January 1, 2007, the sewer rate for retail Customers shall be \$2.63 per 1,000 gallons of water used.

(Ordinance No. G-04-09-23-12A3 of September 23, 2004 as amended by Ordinance No. G-05-09-08-10A1 of September 8, 2005, Ordinance No. G-05-10-13-9B1 of October 13, 2005, and Ordinance No. G-06-11-09-10B1 of November 9, 2006)

(ii) Monthly Service Charge

Except as provided below, in addition to the foregoing rates, each Customer shall also pay a monthly sewer service charge pursuant to the following schedule regardless of the amount of water used.

<u>Meter Size</u>	<u>Current Monthly Service Charge</u>	<u>Monthly Service Charge Effective January 1, 2007</u>
5/8"	\$9.72	\$10.31
3/4"	12.68	13.45
1"	18.19	19.29
1 1/2"	33.17	35.17
2"	51.15	54.22
3"	93.09	98.68
4"	153.01	162.20
6"	451.00	478.06
8"	787.00	834.22
10"	1,235.00	1,309.10
12"	1,515.00	1,605.90

(Ordinance No. 2507 of October 11, 1990 as amended by Ordinance No. G-99-09-23-9A3 of September 23, 1999, Ordinance No. G-03-11-13-10A2 of November 13, 2003, and Ordinance No. G-04-09-23-12A3 of September 23, 2004, Ordinance No. G-05-09-08-10A1 of September 8, 2005, Ordinance No. G-05-10-13-9B1 of October 13, 2005, and Ordinance No. G-06-11-09-10B1 of November 9, 2006)

(iii) Medicaid Exemption Discontinued after October 1, 2005.

Except as provided in (iv) below, on and after October 1, 2005 the monthly sewer service charge exemption for head of household residents eligible for Medicaid benefits will be discontinued.

(iv) Exemption for Current Recipients.

For residential service located within the corporate City limits where the head of the household is eligible for Medicaid benefits, and if said resident head of household was receiving the Medicaid monthly sewer service charge exemption prior to October 1, 2005, and if said resident head of household re-applies for said exemption between October 1 and October 30 of each year, then the exemption shall continue until the head of the household is no longer eligible for Medicaid benefits, as determined by federal guidelines and as administered by the State of Texas.

(v) Unlawful acceptance of exemption or discount.

It shall be unlawful for any Person to apply for and/or receive a sewer rate discount or monthly sewer service charge exemption if such Person is not eligible to receive said discount or exemption.

(b) Outside City Limits

The above sewer rates and service charges apply to all Customers located within the corporate limits of the City. All Customers located outside the corporate limits of the City shall pay double the applicable rates charged Customers within the corporate limits of the City, unless a different rate is approved by the Council pursuant to a contractual agreement.

(c) Based On Winter Usage

Monthly sewer consumption shall be based upon the actual monthly water consumption, or the average monthly consumption for the months of December, January, and February of each fiscal year, whichever is less.

(d) Age 65 and Older(i) Discounts Discontinued after June 10, 1993

Except as provided below, on or after June 10, 1993 the wastewater rate discount for head of household residents 65 years of age and older will be discontinued. All head of household residents 65 years of age and older actually receiving said discounts prior to June 10, 1993 shall continue to receive said discounts as stated in this section, so long as they re-apply for said discounts before October 30 of each year.

(ii) Discounts for Current Recipients

For residential service located within the corporate City limits where the head of the household has attained the age of sixty-five (65), and if said resident head of household was receiving wastewater rate discounts prior to June 10, 1993, and if said resident head of household re-applies for said discounts between October 1, and October 30 of each year, then the following schedule of monthly rates or charges for service furnished by the City's water system shall be and such is hereby adopted and established as follows:

Rate

_____ \$1.20 per 1,000 gallons of water used for all Customers.

Monthly Charge

_____ In addition to the foregoing rates, each Customer shall also pay a monthly sewer service charge of \$5.50 regardless of the amount of water used.

(2) Sewer Rates For Williamson County Municipal Utility District No. 9

The monthly rate for sewer service to Williamson County Municipal Utility District No. 9 is \$2.83 per 1,000 gallons of sewage metered.

(3) Sewer Inspection Fees(a) Sewer Inspection Fee

Each applicant for a plumbing permit, whether for new construction or otherwise, shall at the time the permit is issued, pay a sewer inspection fee of One Hundred Dollars (\$100.00) for each sewer service connection to the main line.

(b) Fees for Sewer Service Outside City Limits

Applicants for sewer service outside the City limits shall pay the same sewer fees as set forth above. Applicants who are otherwise required by contract to obtain building permits shall pay the fees when a permit is issued. Other applicants shall pay the fees when water service is requested.

(Ordinance No. 992 of March 10, 1983, as amended by Ordinance No. 974 of October 28, 1982, Ordinance No. 2173 of April 25, 1985, Ordinance No. 2440 of December 28, 1989, Ordinance No. 2476 of June 14, 1990, Ordinance No. G-93-04-22-8B of April 22, 1993, Ordinance No. G-93-06-10-8G of June 10, 1993, Ordinance No. G-95-01-26-9B of January 26, 1995, Ordinance No. G-02-03-14-12A1 of March 14, 2002, Ordinance No. G-05-09-08-10A1 of September 8, 2005, and Ordinance No. G-05-10-13-9B1 of October 13, 2005)

10.203 UTILITY BILLING POLICY(1) New Service - Residential

New residential accounts are to be established in the name(s) of the Person(s) requesting the service, on an application acceptable to the City.

(2) New Service – Commercial

New commercial accounts, established in a company or business name, must provide the name, identification, and contact information of the manager or a responsible party of the company or business before account will be established, Customer shall provide the business names and names of the manager or responsible party for any unrelated business entities who jointly own or occupy the premises and will jointly utilize the utility service.

(3) Due Date

Bills for water, sewer, and garbage collection shall be dated and mailed at such time as may be directed by the city manager, and payment for such bills is due on or before the sixteenth (16th) day following the mailing of the bills.

(4) Penalty for Late Payment

(a) Any bill not paid by the sixteenth (16th) day following the mailing of the bills shall be deemed past due and a late fee of Two and 50/100 Dollars (\$2.50) or ten percent (10%) of the total amount due, whichever is more, will be assessed.

(b) Upon written request by a Customer with proof that such individual is age sixty (60) or over, payment may be delayed without penalty until the twenty-fifth (25th) day after the date the bill is issued. This Subsection applies only to residential Customers who occupy the entire premises for which the delay is requested.

(5) Disconnection of Services

(a) If a bill continues to be past due for a period in excess of fourteen (14) days, the water supply to the Customer shall be shut off. Water service shall not be resumed until all outstanding fees, service fees, charges or penalties are paid in full.

(b) The service fee for service restoration during regular business hours (Monday-Friday, 8:00 a.m. to 6:00 p.m.) of any business day (excluding weekends and City holidays) shall be Fifty Dollars (\$50.00).

(c) Services shall not be restored during any hours other than regular business hours unless the Customer requests after-hours or same day service and pays the fee set forth in Subsection 10.201(16)(c).

(6) Notice

After a bill has become past due, the City shall mail to the Customer at his last known address a written notice stating that the bill is presently delinquent and that the Customer's water service will be disconnected if the bill and all fees are not paid within fourteen (14) days of the bill becoming delinquent.

(7) Disconnection Hearing

Any Customer who has reason to believe that his bill is inaccurate shall have the right to request a hearing before the City's director of finance within the aforementioned fourteen-day period. If for any reason the director of finance is unable to grant a hearing within that time period, the disconnection of utilities shall be delayed until after a hearing is provided. The decision of the director of finance concerning the accuracy of any utility bill shall be deemed final.

(8) Transfers of Balances

(a) In order to transfer utilities from one location to another, any outstanding billed amount on the current account must be paid. The final bill for the original account will be transferred to and be payable on the due date of the new account including the fees as set forth in Subsection 10.201(16)(b) of this ordinance. Service may be discontinued at the new address if the previous balance becomes delinquent.

(b) Where a Person liable for delinquent charges at one address is found to have an account in his name at another address, the delinquent amounts due at the previous address may be transferred to the account at the new address, and service may be discontinued at the new address until the delinquent amounts are paid. The name on the account need not be the same if ownership or residency can be established by the City.

(9) Joint Liability

(a) Spouses receiving service to premises they jointly own or occupy are deemed to be joint Customers-of-record, notwithstanding that only one spouse may have signed an application, and shall be jointly and severally liable for unpaid delinquent charges.

(b) If service is provided to property owned by a Person jointly with the Customer-of-record, or if the Customer-of-record is an agent or property manager for one or more owners of property, the joint owners shall all be treated as Customers, and each shall remain jointly and severally liable with the Customer-of-record for unpaid delinquent charges.

(c) The City may request proof of residency or ownership when occupancy and/or liability is in question.

(10) Incomplete or False Information

- (a) If any of the information provided to the City to establish a utility account or transfer an existing account is incomplete, the City may deny service to the premises or may delay the service until the information is provided to the satisfaction of the City;
- (b) If any of the information provided to the City to establish a utility account or transfer an existing account is false, the City may disconnect the service to the premises.

(11) Rate Adjustment Authority

The City Manager or his designee shall have the authority to adjust the monthly billing calculations/procedures for any Customer to correct inequities that may arise due to methodologies adopted for calculating rates or for such other good cause as may be determined by the City.

(Ordinance No. 964 of August 26, 1982 as amended by (Ordinance No. G-05-09-08-10A1 of September 8, 2005)

Cross Reference: See Section 1.1103 for Returned Check Charge.

10.204 WATER AND WASTEWATER IMPACT FEES(1) General Provisions

- (a) Purpose. This section is intended to assure the provision of adequate public facilities to serve new development in the City by requiring each development to pay its pro rata share of the costs of improvements necessitated by and attributable to such new development. Impact fees established by this section are additional and supplemental to, and not in substitution of any other requirements imposed by the City on the development of land or the issuance of building permits or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of the City's Comprehensive Plan, the Capital Improvement Plan, the zoning ordinance, subdivision regulations and other City policies, resolutions and ordinances by which the City seeks to provide adequate public facilities in conjunction with the development of land.
- (b) Applicability. This section shall be applicable uniformly to new development that occurs within the water and wastewater service area. For new development that occurs within the boundaries of the city's wholesale customers or other political subdivisions, the applicability and terms for the assessment and collection of the impact fee shall be defined by agreement.

- (c) Authority. This section is adopted pursuant to V.T.C.A., Texas Local Government Code ch. 395, the constitution and laws of the state, and the Round Rock Charter. The provisions of this section shall not be construed to limit the power of the city to adopt an impact fee pursuant to any other source of local authority nor to limit the utilization of any other methods or powers otherwise available for accomplishing the purposes set forth herein.
- (d) Development Approval. No application for new development shall be approved by the City without assessment of an impact fee pursuant to this section, and no water and wastewater tap shall be connected unless the impact fees assessed by this section have been paid.
- (e) Definitions. In addition to the terms defined in the Texas Local Government Code, Section 395.001, the following terms, as used in this section, shall have the meanings ascribed to them herein below:

“Act” means V.T.C.A., Local Government Code Section 395.001 et seq.

"Assessment" shall have the meaning set forth in subsection 395.016(f) of the Act.

"Director" means the Chief of Public Works Operations or his designee.

“Living Unit Equivalent “(LUE) is the standardized measure referred to in the definition of service unit in the Act and in this section. LUE consumes 450 gallons per day of water and produces 350 gallons per day of wastewater.

"Wastewater facility" means a capital improvement or facility expansion for providing wastewater service including but not limited to land or easements, treatment facilities, lift stations, and interceptor mains. The term does not include wastewater lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of facilities and which are maintained in dedicated trusts. The term "wastewater facilities" also does not include dedication of easement or rights-of-way or easements or construction or dedication of on-site wastewater collection facilities required by valid ordinances of the City and necessitated by and attributable to new development.

"Water facility" means improvements for providing water service including but not limited to land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities or transmission mains. The term does not include water lines or mains constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities maintained in dedicated trusts. The term does not include dedication of rights-of-way or easements or construction or dedication of on-site water distribution facilities required by valid ordinances of the City and necessitated by and attributable to new development.

(2) Land Use Assumptions.

- (a) The updated Land Use Assumptions for the City dated October 26, 2004, are hereby adopted and incorporated by reference and shall be kept of record in the office of the City Secretary.
- (b) Said Land Use Assumptions for the City shall be updated at least every five (5) years utilizing the amendment procedure set forth in the Act.
- (c) Amendment to the Land Use Assumptions shall incorporate projections of changes in land uses, densities, intensities and population for the service area over at least a ten-year period.

(3) Water and Wastewater Impact Fee Service Area

- (a) Water and Wastewater Impact Fee Service Area, the boundaries of which are depicted on the map dated October 20, 2004, have been approved by the City Council and a map showing such service areas shall be kept of record in the office of the City Secretary.
- (b) The boundaries of the Water and Wastewater Impact Fee Service Area may be amended from time to time in accordance with the procedures set forth in the Act.

(4) Impact Fee Capital Improvements Plan For Water And Wastewater Facilities

- (a) The Impact Fee Capital Improvements Plan For Water and Wastewater Facilities dated October 26, 2004, is adopted and incorporated in this section by reference and shall be kept on record in the office of the City Secretary.
- (b) The Impact Fee Capital Improvements Plan For Water and Wastewater Facilities may be amended from time to time pursuant to the procedures set forth in the Act.

(5) Determination Of Service Units

- (a) Conversion Table. The number of service units for both water and wastewater service is determined by the size and type of the water meter purchased for the property in accordance with the following schedule:

Meter Size (Inch)	Service Units
5/8 X 3/4	1.00
3/4	1.5
1	2.5
1.5	5.0
2	8.0
3	16.0
4	25.0
6	50.0
8	80.0
10	115.0

- (b) Calculation. Service units shall be calculated based upon the size of the water meter as set out above.
 - (c) No Water Meter. Upon application for a building permit for lots for which no water meter has been purchased, wastewater service units shall be determined by a professional engineer licensed in the State of Texas subject to the approval of the Director.
 - (d) Nonstandard Meter. No adjustment in service units shall be made for water use or fire demand that falls between standard meter sizes or combinations.
 - (e) Revision of Service Units Designation. The City may revise the service units designation in accordance with the procedures set forth in the Act.
- (6) Impact Fees Per Service Unit
- (a) Maximum Allowable Fee. The maximum impact fee per service unit shall be computed by dividing the cost of water and wastewater capital improvements and facilities expansions necessitated by and attributable to new development identified in the impact fee capital improvements plan for each category of capital improvements by the total number of projected service units in the impact fee service area based upon the land use assumptions, and then may be adjusted to reflect a credit, as appropriate, for other non-fee methods of capital payments referenced in Section 395.014(7), Texas Local Government Code. Maximum impact fees per service unit shall be established for each category of capital improvements and are on record in the office of the City Secretary, and incorporated in this section by reference.
 - (b) Beginning on January 1, 2005, the City shall assess and collect per service unit to be served by the City's water system a Water Impact Fee of Four Thousand Two Hundred Ninety-six Dollars (\$4,296.00).

- (c) Beginning on January 1, 2005, the City shall assess and collect per service unit to be served by the City's wastewater system a Wastewater Impact Fee of One Thousand Three Hundred Six Dollars (\$1,306.00).

(7) Assessment Of Impact Fees

- (a) The City shall assess the impact fees per service unit in affect at the time of plat recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the City's subdivision ordinance.
- (b) Except as provided in section 395.019 of the Act, the City shall collect the fees as follows:
 - (1) At the time the political subdivision issues a building permit; or
 - (2) For land platted outside the corporate boundaries of the City, the City shall collect the impact fees at the time an application for an individual meter connection to the City's water or wastewater system is filed.
- (c) For land on which new development occurs or is proposed to occur without platting, the City may assess the impact fees at any time during the development and building process and may collect the fees at either the time of recordation of the subdivision plat or connection to the City's water or wastewater system or at the time the City issues either the building permit or the certificate of occupancy.
- (d) Following assessment of the impact fee hereunder, the amount of the impact fee per service unit may not be increased above the assessed fee unless the owner obtains final approval for replatting in which case a new assessment shall occur at the assessed water and wastewater impact fee per service unit in effect at the time of such replatting.
- (e) An application for an amended plat made pursuant to Texas Local Government Code Section 212.016 or the City's subdivision rules is not subject to a reassessment of the impact fee.

(8) Calculation Of Impact Fees

- (a) The water and wastewater impact fees shall be based on the size of the water meter determined by the Director to be necessary to serve the development and the number of service units associated with that size of water meter. If the City allows a development to connect to the wastewater system without connecting to the water system, the Director shall determine the size of the water meter that would be required if the development did connect to the water system. The number of service units associated with the various sizes of water meter are set forth herein in Section (5), Determination of Service Units.

- (b) A property owner may submit, or the Director may require the submission of a study, prepared by a professional engineer, licensed in the State, clearly indicating the number of water and/or wastewater service units which will be consumed or generated by the new development. The Director will review the information for completeness and conformity with generally accepted engineering practices and may, when satisfied with the completeness and conformity of the study, modify the total number of service units required for the new development.
- (c) Total service units shall be multiplied by the impact fee per service unit for water or wastewater service as depicted in Section (6), Impact Fee Per Service Unit or as determined in subsection (b) above.
- (d) All applicable offsets, credits or discounts per service unit allowable under this section for water or wastewater service shall be subtracted from the product derived under subsection (c) of this section.
- (e) The amount of impact fee due for new development shall not exceed the amount computed by multiplying the assessed fee for water or wastewater service by the total number of service units generated by the development.
- (f) Whenever the property owner increases the number of service units for a development, the additional impact fees collected for such new service units shall be determined based on the assessed fee and applicable offsets, credits and discounts then in effect and such additional fee shall be collected at the time the additional meters are purchased.
- (g) For the purpose of determining water impact fees, no additional service units are attributable to the addition of a separate irrigation meter if the irrigation meter is the same size as or smaller than the existing meter. If a larger irrigation meter is installed, the water impact fee shall be the difference between that of the existing meter and that of the irrigation meter.
- (h) In determining the number of service units for wastewater impact fees, no service units will be attributed to irrigation meters.
- (i) Payment of an impact fee in accordance with the terms and conditions of this section shall entitle the payor to receive a credit for same to be used in the event the tap for the property for which the fee is paid expires and must be repurchased; provided, however, that the impact fee is not refundable upon expiration of the tap.
- (j) If the tap or building permit for the property on which an impact fee is paid has expired and a new application is thereafter filed for the identical property and the same number of service units, the impact fee previously paid satisfies the requirements of this section.

- (k) The impact fee shall attach to the property for which the impact fee was paid and shall not be transferable to other properties or service units.
- (l) No request to connect to the water and wastewater system shall be granted and no building permit shall be issued if the applicant cannot verify payment of the appropriate impact fee and other applicable fees or if existing facilities do not have actual capacity to provide service to the new connection(s).

(9) Credits

If the City requires, as a condition of development approval, or otherwise enters into an agreement with a developer, to have the developer construct, fund or otherwise contribute toward the cost of a capital improvement or facility expansion included in the adopted water or wastewater capital improvements plan, the City shall provide for reimbursement in the form of credits against impact fees that would otherwise be due from the development. Such credits shall run with the land and shall be used to reduce the amount of the impact fee that would otherwise be owed at the time of collection of impact fees. If the amount of such credits would be insufficient to reimburse the developer for the cost of required improvements, the City shall provide for reimbursement to the developer up to the balance of the cost of the required improvements from water or wastewater impact fees collected from other new development within the same service area. In determining the amount of such credits, the developer shall submit evidence of the actual, fair-market cost of the required improvement. Such credits shall only be applicable against the impact fees for the type of facility (water or wastewater) for which the capital improvement is made.

(10) Exceptions And Exemptions

- (a) **Limitation on Modification.** Except as provided in this section or by contract in existence on the effective date of the ordinance codified in this section, any reduction, change or modification in the amount or time of payment of the impact fee must be approved by a duly enacted ordinance of the City Council.
- (b) **Fire Protection Capacity.** No fee shall be collected for the purchase of a tap that is utilized to provide only fire protection capacity.
- (c) Nothing hereinabove stated shall be construed to alter the terms of a contract with a wholesale customer of the City regarding the payment of impact fees and shall not be construed to authorize the payment of impact fees in installments in areas encompassed by such a contract for wholesale service.
- (d) **Exchange.** A tap may be exchanged before any water or wastewater service has been received for another tap without collection of the impact fees established in this section if the exchange will result in an equivalent or lesser number of service units to be utilized on the property for which the tap was originally purchased. The number of service units to be exchanged shall be determined in accordance with Section 5 and shall not be based on the number of units at the time of initial purchase.

- (e) Waiver. By majority vote of the City Council, a resolution or ordinance may be adopted waiving or reducing the impact fees for a certain class of development, or for a specific development if there is a finding that the proposed waiver or reduction would result in substantial economic benefit to the City.

Editor's Note - All water and wastewater impact fees for public school buildings were waived pursuant to Ordinance No. G-95-03-23-9A of March 23, 1995.

(11) Accounting For Fees And Interest

- (a) All water and wastewater impact fees collected by the City shall be deposited in interest bearing accounts clearly identifying the category of capital improvements for which the fees were collected.
- (b) Interest earned by each account shall be credited to the account on which it is earned and shall be used solely for the purposes specified for impact fees as authorized hereinbelow.
- (c) The City shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in this section. Disbursement of funds shall be authorized by the City at such times as are reasonably necessary to carry out the purposes and intent of this section; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten years from the date the fee is deposited into the account.
- (d) The City shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all moneys received, the number of service units for which the moneys are received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the impact fee capital improvements plan as system-related capital projects. The City shall also maintain such records as are necessary to ensure that refunds are appropriately made in accordance with this section.

(12) Use Of Proceeds Of Impact Fee Accounts

- (a) Water and wastewater impact fees shall only be used to pay the costs of constructing water and wastewater capital improvements or facility expansions, including and limited to the following:
 - (1) Construction contract price;
 - (2) Subject to the provisions of subsection 395.012(b) of the Act, interest charges, including projected interest charges, or other finance costs;

- (3) Surveying and engineering fees;
 - (4) Land acquisition costs, including land purchases, court awards and costs, attorney's fees and expert witness fees; and
 - (5) Fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the City.
- (b) Impact fees collected pursuant to this section shall not be used to pay for any of the items set forth in Section 395.013 of the Act.
- (13) Refunds
- All or any portion of a water or wastewater impact fee payment that has been collected by the City and has not been spent as authorized by this Section within ten (10) years from the date such impact fee was collected shall be refunded pursuant to the provisions set forth in Section 395.025 of the Act.
- (14) Updates To Plan And Revisions Of Fees
- The City shall review the land use assumptions and impact fee capital improvements plan for water and wastewater facilities at least every five (5) years, with the five-year period to commence from the date of adoption of the impact fee capital improvements plan referenced in this section. The City Council shall accordingly make a determination of whether changes to the land use assumptions, impact fee capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in the Act, or any successor statute, either update the fees or make a determination that no update is necessary.

(Ordinance No. G-04-10-26-14A1 of October 26, 2004)

10.205 ENFORCEMENT

- (1) A Person commits an offense if he violates any provision of this Section 10.200, Water and Sewer Rates and Utility Billing Policies. Each instance of a violation of this Section is a separate offense.
- (2) A Person commits an offense if he knowingly makes a false statement on an application for service under this Section.
- (3) Proof of a culpable mental state is not required for a conviction of any offense under this Section.
- (4) A Person who violates any provision of this Section is guilty of a Class C misdemeanor, which, upon conviction, is punishable as set forth in Section 1.600, Penalties for Violations of Code. Prosecution of an offense under any Subsection does not preclude other enforcement remedies under this Section.

- (5) In addition to proceeding under the authority of this Section, the City is entitled to pursue any and all other criminal and civil remedies to which it is entitled pursuant to authority granted by any other applicable laws, regulations or ordinances.
- (6) For repeat violations of this Section, water service may be disconnected or restricted.
- (7) Any penalties provided for by this Section are in addition to those penalties or fees provided for by other provisions of this Code for failure to timely pay any bill, or portion thereof, for water and sanitary sewer services.

(Ordinance No. G-05-09-08-10A1 of September 8, 2005)

SECTION 10.300 STREET CUTTING REGULATIONS

10.301 PERMIT REQUIRED PRIOR TO CUTTING STREETS

It shall be unlawful for any person, firm or corporation to cut, bore, install, repair or remove, water, sewer or gas mains, electric utility or telephone lines in existing paved or unpaved streets, alleys or other public places within the corporate limits of the City of Round Rock, Texas, without having first obtained a permit as is herein required, or without complying with the provisions of this section or in violation of or variance from the terms of any such permit.

10.302 APPLICATIONS TO BE MADE TO CITY SECRETARY

Applications for such permits shall be made to the city secretary, and shall describe the location of the intended work site, the size thereof, the purpose therefor, and the person, firm or corporation doing the actual work, and the name of the person, firm or corporation for whom or which the work is being done; and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

(Ordinance No. 305 of December 19, 1974)

10.303 PERMIT FEE

The fee for such permits shall be two hundred dollars (\$200.00) except that the fee charged for the purpose of modifying, replacing or realigning the driveway of an existing single-family or two-family dwelling shall be fifty dollars (\$50.00).

(Ordinance No. 2399 of March 23, 1989)

10.304 BOND REQUIRED

No such permit shall be issued unless and until the applicant therefor has filed with the city secretary a bond in the sum of two thousand dollars (\$2,000.00) conditioned to indemnify the city for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation. Such bond shall have as surety a corporation licensed to do business in the State of Texas as a surety company.

10.305 SPECIFICATIONS AND CONSTRUCTION REQUIREMENTS

Such installation, repair or removal of water, sewer or gas mains, electric utility or telephone lines in existing paved, or unpaved streets, alleys or other public places in the corporate limits of the City of Round Rock, Texas, shall be done in accordance with the following specifications and requirements:

(1) Back-Filling

All excavations within a right-of-way and not under surfacing shall be back-filled by tamping in six (6) inch horizontal layers, ponding or jetting. All surface materials shall be removed from the right-of-way and the excavation finished flush with surrounding natural ground.

(2) Sodding on Certain Slopes

Where sodding is disturbed by excavation or back-filling operations, such areas shall be replaced by mulch sodding on all slopes of two (2) percent or less. All slopes over two (2) percent shall be replaced by black sodding.

(3) Back-Filling Gravel Streets or
Streets Under Construction

All excavation in gravel streets or streets under construction shall be back-filled with select material by tamping six (6) inch horizontal layers to finished grade, then the top six (6) inches of back-fill shall be removed and replaced with one (1) inch road base, tamped or rolled to ninety-five (95) percent of density.

(4) Boring Under Surfaced Streets

Crossings under surfaced streets within the right-of-way shall be placed by boring. Boring shall extend from crown line to crown line, or to a point two (2) inches beyond back of curb. All lines under streets carrying pressure shall be enclosed in casing satisfactory to the city. Gravity flow sewer lines placed under existing paved streets by boring shall be cast iron pipe.

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(5) Where Boring Impracticable

Where evidence is presented indicating the impracticability of boring or tunneling, the Public Works Director of the City of Round Rock may grant permission to cut the surfacing. In the event a cut is permitted, the following conditions shall govern said operation:

- (a) If the surface to be cut is an asphalt surface, it shall be cut or scored in a straight line before any digging has begun to prevent breaking the seal of the paved area not to be disturbed.
- (b) All back-fill material shall be stabilized with Portland Cement and mixed in a concrete mixer or transit mix equipment. If soil is used, it shall be sandy material free from lumps or clods, and shall be stabilized with two (2) sacks of cement per cubic yard of soil. If sand and gravel are used, pit run material will be allowed, and it shall be stabilized with one (1) sack of cement per cubic yard. Back-fill may be mechanically tamped in a moist condition or water added to provide a free flowing mixture. Stabilized back-fill shall be completed to a point one and one-half (1½) inches below existing finished grade and the remaining one and one-half (1½) inches shall be replaced with hot mix asphaltic concrete; hot or cold lay.

(6) Excavations Along Highways

Operations along highways shall be performed in compliance with Texas Department of Highways and Public Transportation specifications and in such manner that all excavated material be kept off the pavement at all times, as well as all operating equipment.

(7) Terms of Permit To Be Complied With;
Damage To Be Avoided

- (a) It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations the excavations shall not have anywhere below the surface any portion which extends beyond the opening at the surface.
- (b) No injury shall be done to any pipes, cables, or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the city department or officer charged with the care thereof which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.
- (c) No unnecessary damage or injury shall be done to any tree, shrub or the roots thereof.

(8) When Sidewalk Blocked by Work

If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users.

(9) Responsibility For Enforcement

The director of public works or his designee shall be responsible for the enforcement of the provisions of this section. Notice shall be given to him at least ten (10) hours before the work of refilling any tunnel or excavation commences.

(10) Barriers and Warning Devices To
Be Properly Placed and Maintained

(a) It shall be the duty of every person cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for the safety of the general public. Barriers, warning signs, lights, etc., shall conform to the requirements of the city. Warning lights shall be flares, torches, lanterns, electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day.

(b) The permittee shall take appropriate measures to assure that during the performance of the excavation or other work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public. When traffic conditions permit, the director of public works may, by written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. Such written approval may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

(c) Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the director of public works.

(11) Access to Vital Equipment To Be Maintained

All works performed shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures and all other vital equipment as designated by the director of public works.

(12) Permittee to Maintain safe Crossings
for Vehicles and Pedestrians

The permittee shall maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than three hundred (300) feet. If any excavation or work is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half ($\frac{1}{2}$) of the sidewalk width shall be maintained along such sidewalk line.

(13) Permittee to Preserve and Protect
Private and Public Property

The permittee shall at all times and at his or her own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protecting measures, the permittee shall first obtain consent from the owner of such private property for such purpose and if he cannot obtain such consent, the director of public works may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work, and shall be responsible for all damage to public or private property or highways resulting from his failure to properly protect and carry out such work. Whenever it may be necessary for the permittee to trench through any lawn area, said area shall be re-seeded or the sod shall be carefully cut and rolled and replaced after ditches have been back-filled as required in this section. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas without first obtaining the consent of the appropriate city department or city official having supervision of such property.

(14) Streets To Be Thoroughly Cleaned of Debris

As the work progresses, all streets shall be thoroughly cleaned of all rubbish, excess rock, earth or other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the director of public works. From time to time, as may be ordered by the director of public works and in any event immediately after completion of said work, the permittee shall, at his or her own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four (24) hours after having been notified to do so by the director of public works, said work may be done by the director of public works and the

cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.

(15) Street To Be Restored to Original
Condition as Quickly as Possible

After an excavation or other work is commenced, the permittee shall prosecute with diligence and expedition all work covered by the permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary.

(16) Unnecessary Inconvenience,
Annoyance, and Noise To Be Avoided

Each permittee shall conduct and carry out the work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 9:00 p.m. and 8:00 a.m. shall not use, except in case of emergency, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

(Ordinance No. 305 of December 19, 1974)

(17) Emergency Repairs Authorized

Nothing in this section shall be construed to prevent the making of such repairs or excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, or for restoring utility service, provided that the person making such excavation shall apply to the director of public works for a permit on the first working day after such work is commenced and fully comply with the other requirements of this section.

(Ordinance No. 307 of April 10, 1975)

10.306 APPLICABILITY OF SECTION

Irrespective of any language to the contrary hereinabove set forth, this section shall apply to any existing paved or unpaved streets, alleys or other public places within the corporate limits of the City of Round Rock, Texas, and also shall apply to such streets, both paved and unpaved, alleys, and other public places that may be dedicated or constructed in the corporate limits of the City of Round Rock, Texas, in the future.

(Ordinance No. 306 of March 13, 1975)

SECTION 10.400: PRETREATMENT PROGRAM

This section adopts by reference, the applicable regulations of Title 40 Code of Federal Regulations, Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution," and other applicable State and Federal laws, including but not limited to, the Clean Water Act. These regulations are herein referred to as General Pretreatment Regulations.

10.401 PURPOSE AND APPLICABILITY

(1) Purpose

This section forms the basis of the City of Round Rock's pretreatment program to regulate nondomestic discharges to its sewage collection and treatment facilities. Regulation of such discharges is necessary to prevent interference with the operation of the facilities, to prevent pass-through of the treatment facilities, and to prevent any other condition which would be incompatible with the facilities. To ensure the quality of sludge to allow its use and disposal in compliance with statutes and regulations; improve the opportunity to recycle and reclaim wastewater and sludge; provide for equitable distribution of the cost of operation, maintenance and improvement of the publicly owned treatment works (POTW); enable the POTW to comply with Texas Pollutant Discharge Elimination System (TPDES) permit conditions, sludge use and disposal requirements and any other Federal or State Laws.

(2) Applicability

This section shall be applicable to all nondomestic dischargers to the Brushy Creek Regional Wastewater System.

10.402 DEFINITIONS

(1) The following words and phrases shall have the meanings herein:

Act or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. Section 1251 et.seq.

Approval Authority means the Regional Executive Director of the Texas Commission on Environmental Quality (TCEQ).

Approved Test Procedures means those procedures found at Title 40 Code of Federal Regulations, Part 136 and those alternate procedures approved by the Administrator of the United States Environmental Protection Agency under the provisions of Title 40.

Authorized Representative of User means a duly authorized representative of a user in accordance with the General Pretreatment Regulations.

BCRWS Brushy Creek Regional Wastewater System.

BOD (biochemical oxygen demand) means the oxygen required for the biochemical degradation of organic material in five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter (mg/L), as determined by approved test procedures.

Categorical User means a user that is subject to the National Categorical Standards.

City means the City of Round Rock, Texas or any authorized person acting in its behalf.

Cooling Water means the water discharged from any system of condensation, such as air conditioning, cooling, and refrigeration systems.

COD (chemical oxygen demand) means the measure of the oxygen equivalent of the organic matter content that is susceptible to oxidation by a strong chemical oxidant, expressed in mg/L as determined by approved test procedures.

Composite sample means a sample resulting from the combination of individual aliquots taken at equal intervals based on increments of time, flow or both.

Control Authority means the City Manager, Director of Public Works or a duly authorized representative for the purpose of implementation and enforcement of this division and the Brazos River Authority as the publicly owned treatment works (POTW) responsible for implementation of the pretreatment program approved by the Texas Commission on Environmental Quality.

Control Point means point of access to a user's sewer where sewage monitoring can be done.

Dilution means the addition of any material, either liquid or nonliquid, or any other method to attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the national categorical standards or local limits set by this section.

Director means the City of Round Rock Director of Public Works or his duly authorized representative unless otherwise specified.

Domestic Sewage means water-borne materials normally discharged from sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, factories and institutions, free from storm water, utility and process discharges. Normal domestic sewage means normal sewage for Round Rock, Texas, in which the average daily concentration of biochemical oxygen demand (BOD) and total suspended solids (TSS) are established at two hundred-fifty (250) mg/L each, on the basis of the normal contribution of twenty-hundredths (0.20) pounds per capita per day each, and in which the average daily concentration of chemical oxygen demand (COD) is established at four hundred-fifty (450) mg/L. It is further expressly provided that for the purpose of this section, any discharge

that exceeds the above concentration of BOD, TSS or COD shall be classified as nondomestic and made subject to all regulations pertaining thereto, whether or not such discharge was partially of domestic origin.

Environmental Protection Agency (EPA) means the U. S. Environmental Agency, or where, appropriate, The Regional Water Management Division director, or other duly authorized official of said agency.

Existing Source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

General Pretreatment Regulations means Title 40 Code of Federal Regulations, Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution."

Grab sample means an individual sample collected without regard to flow in a time not to exceed fifteen minutes.

Headworks means the location where raw (untreated) sewage is introduced into the sewage treatment facilities.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both; (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) Therefore is a cause of a violation of any requirement of the POTW's permit or of the prevention of sewage sludge use or disposal.

Maximum Allowable Discharge Limit means maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Monthly Average Limit means a discharge limit based on the average of the analytical results of all samples for a parameter taken during a calendar month using approved methods for both sampling and analysis.

National Categorical Standards means the pretreatment regulations of Title 40 of the Code of Federal Regulations, Chapter I, Subchapter N, "EPA Effluent Guidelines and Standards."

New Source shall mean the following:

- (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (i) The building, structure, facility or installation is constructed at a site which no other source is located; or
 - (ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (b) and (c) in Part 1 above, but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined herein has commenced if the owner or operator has:
- (i) Begun, or caused to begin as part of a continuous onsite construction program any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.

Noncontact cooling water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Noncategorical User means a user that is not subject to the national categorical standards.

Nondomestic Sewage means a discharge to the POTW that is not domestic sewage.

Nonprocess flows means sewage that is not classified as domestic or process, such as noncontact cooling water, cooling tower blowdown, air conditioner condensates, and demineralizer blowdown.

Outfall means a discharge of sewage that is expressly identified by the Control Authority for control and monitoring purposes.

Overload means the imposition of mass or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Pass-through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Brushy Creek Regional Wastewater System TPDES permits, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State and local governmental entities.

pH means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration. Measure of the acidity or alkalinity measured in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

POTW (Publicly Owned Treatment Works) means the sewage treatment works owned/operated by the BCRWS. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage. It includes sewers, pipes, and other conveyances only if they convey sewage to the BCRWS.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment Requirements means all of the requirements that are set forth in this ordinance Section 10.400 and in 40 CFR.

Process Flow means sewage that is generated during manufacturing or processing, which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Removal is as defined in the General Pretreatment Regulations.

Sewage means solids, liquids, or gaseous materials discharged to the City's POTW. Sewage includes both domestic and nondomestic sewage.

Sewer (sanitary sewer) means an artificial pipe or channel that carries sewage and to which storm water and ground water are not intentionally admitted.

Shall means mandatory; May is permissive or discretionary.

Significant User means a user that is: (1) subject to national categorical standards; (2) discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process flow to the POTW; (3) discharges of process flow which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or; (4) has a reasonable potential, in the opinion of the Control Authority, to adversely affect the POTW treatment plant.

Sewage sludge means any solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

Slug Load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards stated herein.

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Office of Management and Budget.

Storm Water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Surcharge means the additional wastewater service charge incurred by any user discharging waste containing higher concentrations of BOD, Oil & Grease, TSS and COD than those defined for domestic sewage herein.

To Discharge includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts.

TPDES means Texas Pollutant Discharge Elimination System.

TPDES Permit Holder means the Brazos River Authority for the Brushy Creek Regional Wastewater System.

TSS (total suspended solids, nonfilterable residue) means solids that either float on the surface or are in suspension, measure at one hundred-three to one hundred-five degrees Celsius (103-105°C), expressed in mg/L, as determined by approved test procedures.

User means a discharger of any nondomestic sewage to the POTW. A user includes, but is not limited to, any individual, firm, company, partnership, corporation, group, association, organization, agency, city, county, or district.

- (2) The meaning of all terms used in this ordinance that are not defined above shall be as defined in Title 40, Code of Federal Regulations.

10.403 PRETREATMENT STANDARDS

There are three types of pretreatment standards: prohibited discharge standards - including general, specific, and dilution prohibitions; national categorical standards; and local limits. These standards shall apply to a user whether or not the user is subject to other federal, state, or local requirements.

The standards in this subsection shall apply to each user, as applicable. Users in an industrial manufacturing category specified in Title 40 of the Code of Federal Regulations Chapter I, Subchapter N, "EPA Effluent Guidelines and Standards," shall be subject to prohibited discharge standards, national categorical standards, and local limits. Other users shall be subject to prohibited discharge standards and local limits. Where these standards overlap, the most stringent standard shall apply to the user.

The Control Authority, at his discretion, has the right to apply these standards to individual nondomestic discharges before they are commingled.

(1) Prohibited Discharge Standards

(a) General Prohibitions

A user may not discharge to the POTW any material which causes pass-through or interference.

(b) Specific Prohibitions

The following shall not be discharged to the POTW:

- (i) Discharges which are capable of creating a fire or explosion hazard in the POTW. These discharges include, but are not limited to, discharges with a closed cup flashpoint of less than one

hundred forty degrees Fahrenheit (140° F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM (American Society for Testing and Materials) standard D-93-79 or D-93-80K or a Seta flash Closed Cup Tester, using the test method specified in ASTM standard D-3278-78;

- (ii) Discharges which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.5 or greater than 9.5;
- (iii) Discharges containing (1) solid or viscous materials in amounts which will cause obstruction to the flow in or proper operation of the POTW resulting in interference; (2) any materials such as wax, grease, oil, or plastics that will solidify or become discernibly viscous at temperatures between thirty-two and one hundred-fifty degrees Fahrenheit (32-150° F); (3) petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; (4) any materials such as ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues or bulk solids in such quantities capable of causing interference with the POTW; or (5) any fats, oils, greases or similar materials in excess of a daily average limit of two hundred (200) milligram per liter (mg/L) using approved methods for fats, oils and greases.
- (iv) Discharges having a temperature higher than one hundred-fifty degrees Fahrenheit (150° F) (sixty-five degrees Celsius, 65° C), or any discharge which contains heat in amounts which will inhibit biological activity or cause interference with the POTW, but in no case heat in such quantities that the temperature at the headworks of the POTW exceeds one hundred-four degrees Fahrenheit (104° F) (forty degrees Celsius, 40° C);
- (v) Discharges that contain any noxious or malodorous materials which can form a gas, which either singly or by interaction with other discharges, are capable of causing objectionable odors; or hazard to life; or creates any other condition deleterious to the POTW; or requires unusual provisions, attention, or expense to handle;
- (vi) Discharges which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute workers health and safety problems;
- (vii) Discharges that are capable of causing excessive discoloration in the POTW effluent;

- (viii) Discharges with unusual flow and concentration, including those with oxygen demanding materials, at a flow rate or concentration which will cause interference with the POTW, or if such materials can cause damage to collection facilities, impair the treatment processes, incur excessive treatment cost, or cause the City to be noncompliant with the conditions of its discharge permits;
 - (ix) Discharges containing a BOD (biochemical oxygen demand) or TSS (total suspended solids) concentration in excess of 7,000 mg/L;
 - (x) Discharges classified by the Texas Commission on Environmental Quality as hazardous waste at 31 TAC (Texas Administrative Code) Chapter 335 without the written approval of the Control Authority;
 - (xi) Discharges containing radioactive materials without the written approval of the Control Authority;
 - (xii) Materials that are trucked or hauled in, except at discharge points that are designated by the Control Authority; or
 - (xiii) Discharges from steam cleaning and chemical cleaning businesses unless a facility or process is provided that will produce an effluent compliant applicable Pretreatment Requirements. There shall be no discharge of visible foam.
- (c) Dilution Prohibitions
- (i) No user shall ever add any material, either liquid or nonliquid, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the national categorical standards or local limits.
 - (ii) This prohibition does not include dilution which is a normal part of the production process or a necessary part of the process to treat a waste, such as adding lime for neutralization or precipitation, or the mixture of compatible wastes in order to treat at capacity levels rather than treating wastes in small batches.
 - (iii) The Control Authority, at his discretion, may impose mass limitations on a user that is using dilution to meet applicable pretreatment standards or requirements, or in cases where the imposition of mass limitations is appropriate.

(2) National Categorical Standards

National Categorical standards apply to specific industrial subcategories under Title 40 of the Code of Federal Regulations, Chapter I, Subchapter N, "EPA Effluent Guidelines and Standards." A user that falls into one of these subcategories shall be subject to the pretreatment standards applicable to that subcategory and is classified as a categorical user.

(3) Local Limits

Local limits are quantitative limits on discharges applicable to all users. Local limits are designed to meet the general and specific prohibitions in 10.403(1)(a) and (b) of this ordinance.

(a) Existing Local Limits

Local limits are periodically reviewed by the Control Authority and revised as necessary to respond to changes in federal, state, or local regulations, environmental protection criteria, plant design and operational criteria, and the nature of industrial discharges to the POTW. Local limits are as follows:

<u>Constituent*</u>	<u>Maximum Allowable Concentration in a Daily Composite, mg/L</u>
Arsenic	1.06
Cadmium	0.32
Chromium	10.70
Copper	3.83
Cyanide	0.40
Lead	0.95
Mercury	0.0**
Nickel	3.96
Selenium	0.04
Silver	0.81
Zinc	1.80

* Limits for metal based on unfiltered samples.

**Compliance shall be measured at the minimum analytical level (MAL) of 0.0002 mg/L)

(b) Case-by case Local Limits

Local limits that have not yet been established for a material may be developed on a case-by-case, user specific basis. A user must have the case-by-case local limit(s) included in a permit before discharging to the POTW.

10.404 SIGNIFICANT USERS

(1) Option to Exclude Industrial Users

The Control Authority need not list as significant any industrial user that does not meet the definition of a significant industrial user as found in 40 CFR 403.3(t).

(2) Delisting of Industrial Users

Any industrial user that has been listed as a significant industrial user may petition the Control Authority to be removed from the significant industrial user list and reclassified as nonsignificant on the grounds that it has no potential for adversely affecting the POTW's operation or for violating any of the Pretreatment Requirements.

(3) Notification Requirements

If an industrial user has been listed as a significant industrial user by the Control Authority for whatever reason, prior to removal from the list, the Control Authority will notify the Approval Authority.

10.405 DISCHARGE PERMITS

(1) Applicability

The following shall obtain a discharge permit:

- (a) Significant Users;
- (b) Categorical Users;
- (c) Businesses or industries with a manufacturing process;
- (d) Any other business, individual or entity connected to the sanitary sewer, which in the opinion of the Control Authority requires a permit.

These entities shall obtain a permit from the Control Authority prior to discharging non-domestic sewage to the BCRWS. Permit applications shall be submitted to the Control Authority prior to permit issuance. Either the owner or operator of a user's facility shall submit the application.

(2) Denial or Condition of Permit

The Control Authority has the right to deny or condition a permit for any nondomestic discharges that do not meet the Pretreatment Requirements or would cause the City to be noncompliant with the conditions of the BCRWS's discharge permits.

(3) Permit Conditions

(a) Minimum Conditions

The permit will contain the following minimum conditions:

- (i) Period during which the permit is effective, in no case greater than five (5) years;
- (ii) Transferability of the permit to a new owner or operator allowable only with notification and approval of Control Authority;
- (iii) Limits on the volume and quality of sewage discharged based on the Pretreatment Standards;
- (iv) Requirements for self-monitoring programs such as location, type, and frequency of sampling, measurement, and analysis; and
- (v) Requirements for notifications, reports, and record keeping.
- (vi) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(b) Other Conditions

The following conditions, as applicable, will be in the permit:

- (i) Conditions and compliance schedule necessary to achieve compliance with the Pretreatment Requirements.
- (ii) Plans to prevent and control spills and batch discharges;
- (iii) Any other conditions necessary to ensure compliance with the Pretreatment Requirements, and other federal, state and local requirements, and;
- (iv) A statement requiring that all reports contain the certification statement at 40 CFR 403.6(a)(2).

(4) Permit Application Form

Applications for new permits, permit renewals, and permit modifications shall be made on a standard form provided by the Control Authority. Applications shall be submitted to the Control Authority.

(5) Existing Users

Significant users with existing nondomestic discharges prior to March 14, 1990, shall submit a permit application before September 15, 1990. Other users with existing nondomestic discharges prior to March 14, 1990 shall submit a permit application before June 15, 1990. Existing users shall be allowed to discharge nondomestic sewage without a permit until the Control Authority has issued the user a permit, if the user has submitted a permit application with the applicable time period.

(6) New Users

A new user shall submit a permit application and obtain a permit before discharging to the POTW. An application shall be submitted by significant users at least one hundred eighty (180) days before the date the discharge will begin. It is recommended that an application be submitted by other user at least ninety (90) days before the date the discharge will begin.

(7) Discharge and Permit Modifications

If a user with a discharge permit wishes to add or change a process or operation which would change the nature or increase the quantities of materials discharged to the POTW such that the user would be noncompliant with the user's permit requirements or the Pretreatment Requirements, the user shall obtain approval by the Control Authority prior to making these additions or changes to the discharge. Approval shall be given by the Control Authority by a modification, or revocation and re-issuance of the permit. A significant user shall submit an application for permit modification at least one hundred eighty (180) days before the date the change in discharge is expected to begin. It is recommended that an application be submitted by other users at least ninety (90) days before the date the change in discharge is expected to begin.

(8) Permit Renewal

A permit may have a period of duration up to five (5) years. A permit shall be renewed by submitting an application for renewal. An application for the user shall be submitted at least ninety (90) days before the expiration date of the existing permit.

(9) Re-opening of Permit

The Control Authority has the right to re-open a permit before its expiration date to include compliance schedules, or to achieve compliance with new or revised Pretreatment Requirements, federal, state, or local requirements.

(10) Changes in Owner or Operator(a) Transfer of Permit

A permit shall only be transferred to a new owner or operator if the following conditions are met. The expiration date of the permit is not extended by the transfer. The control Authority will send to the owner or operator a revision to the permit to reflect the change in owner or operator.

- (i) The nature of the discharge or operation of the facility will not change under the new owner or operator;
- (ii) The current owner or operator notifies the Control Authority at least thirty (30) days in advance of the proposed transfer date;
- (iii) The notification includes a written agreement between the current and new owner or operator continuing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- (iv) The Control Authority does not notify the current and new owner or operator of the Control Authority's intent to revoke and reissue the permit. If the Control Authority does not notify, the transfer is effective on the date specified in the written agreement.

(b) Revocation and Re-issuance of Permit

If above conditions in paragraph (a) are not met, the Control Authority shall require the new owner or operator to submit a permit application as a new user and obtain a permit before discharging to the POTW. In addition, the current owner or operator shall notify the Control Authority at least thirty (30) days in advance of the proposed date on which the ownership will change.

10.406 REMOVAL CREDITS

- (1) The Control Authority may, at his discretion, grant removal credits to a categorical user to reflect removal by the POTW of materials specified in the national categorical standards. The Control Authority may grant a removal credit equal to or, at his discretion, less than the POTW's consistent removal rate. Removal credits may only be given for indicator or surrogate materials regulated in a national categorical standard if the standard so specifies.
- (2) A user shall submit a removal credit application to the Control Authority. Written approval by the Control Authority shall be obtained prior to taking the removal credit. Application shall be made on a standard form provided by the Control Authority.

- (3) The Control Authority has the right to grant removal credits only after meeting the requirements of the General Pretreatment Regulations.

10.407 NOTIFICATION REQUIREMENTS

Notification to the Control Authority is required for any of the following. The timing, content, and form of notification are established either in the discharge application or discharge permit, as applicable.

- (1) A condition or event that would cause pass-through of or interference with the POTW, including slug loadings as defined by 10.402 and 10.403 herein.
- (2) Permit noncompliance.
- (3) Bypasses and upsets.
- (4) A change in pretreatment processes.
- (5) A change in monitoring facilities such as location and type of equipment.
- (6) Discharges of hazardous waste.
- (7) Discharges containing radioactive materials.
- (8) Other appropriate conditions or events to ensure compliance with the Pretreatment Requirements, and other federal, state, or local requirements.

10.408 REPORTING REQUIREMENTS

- (1) Baseline Report

Categorical users shall submit baseline reports in accordance with the General Pretreatment Regulations.

- (a) Within either one hundred eighty (180) days after the effective date of the categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report which contains the information listed in paragraph (b) below. At least ninety days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Control Authority a report which contains the information listed in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (b) Users described above shall submit the following:
- (i) Identifying Information - The name and address of the facility, including the name of the operator and owner.
 - (ii) Environmental Permits - A list of any environmental control permits held by or for the facility.
 - (iii) Descriptions of Operations - A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (iv) Flow Measurement - Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use to the combined wastestream formula.
 - (v) Measurement of Pollutants - The categorical pretreatment standards applicable to each regulated process. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Control Authority, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be collected and analyzed in accordance with procedures set out in 40 CFR 136.
 - (vi) Signature and Certification - All baseline monitoring reports must be signed and certified in accordance with 40 CFR 403.6 (a)(2)(ii). This statement must be reviewed by an authorized representative of the IU and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis.

(2) Compliance Schedule Progress Reports

- (a) Should additional pretreatment or operation and maintenance be required to meet pretreatment standards, a compliance schedule will be issued. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the user to meet the applicable pretreatment requirements.
- (b) No increment shall exceed nine (9) months.

- (c) The user shall submit a progress report to the Control Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance. This report shall include as a minimum, whether or not the user complied with the progress increments, reasons for any delays, and steps being taken by the user to return to the established schedule.

(3) Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in 10.408(1)(b)(iv)-(vi) herein. For users subject to equivalent mass or concentration limits established in accordance with 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with 40 CFR 403.6(a)(2). Categorical users shall submit reports in accordance with the General Pretreatment Regulations on compliance schedule progress, compliance with categorical pretreatment standard deadlines, and continued compliance with categorical pretreatment standards.

(4) Periodic Reports on Continued Compliance

- (a) All significant industrial users shall, at a frequency determined by the Control Authority but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants and the estimated or measured daily maximum and average flows of the discharges to which pretreatment requirements are applicable. All periodic reports must be complete, signed and certified in accordance with 40 CFR 403.6(a)(2)(ii).
- (b) The Control Authority may require all other users and/or persons discharging nondomestic wastewater into the POTW to submit appropriate reports concerning the nature and concentration of pollutants in the discharge.

(5) Reports of Additional Samples Taken

If a user subject to pretreatment requirements monitors any pollutant more frequently than required using approved test procedures, the results of this monitoring shall be included in the periodic reports.

(6) Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation.

(7) Sample Collection and Monitoring Requirements

All sampling techniques and pollutant analyses used for compilation of data required to be submitted as part of a wastewater discharge application or report required by any pretreatment requirement shall be performed in accordance with the techniques prescribed in Title 40, Code of Federal Regulations, Part 136 unless otherwise specified in an applicable categorical pretreatment standard.

(8) Additional Reports

The Control Authority has the right to request any additional reports from a user that are necessary to assess and assure compliance with the Pretreatment Requirements.

(9) Record Keeping

- (a) Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and additional records obtained pursuant to monitoring activities undertaken by the user independent of such requirements.
- (b) Records shall include the date, exact place, method, and time of the sampling and the name of the person(s) taking the sample; dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of the analyses.
- (c) Records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user of the Control Authority, or where the user has been specifically notified of a longer retention period by the Control Authority.

10.409 PRETREATMENT FACILITIES

Users shall provide pretreatment facilities if they are necessary in order to comply with the pretreatment standards in 10.403 of this ordinance.

(1) Approval of Proposed Pretreatment Facilities

Plans, specifications, and any other pertinent information related to proposed pretreatment facilities for significant users shall be submitted to the Control Authority. Other users may be requested by the Control Authority to submit plans, specifications, and any other pertinent information related to proposed pretreatment facilities. Construction of such facilities prior to acceptance by the Control Authority may be done solely at the risk of the user. This acceptance shall in no way relieve the user of the obligation to install, operate, maintain and, if necessary, modify the pretreatment facilities to maintain compliance with the Pretreatment Requirements. Pretreatment facilities shall be constructed so as to provide the following:

- (a) Prevention of prohibited discharges from entering a sewer;
- (b) Control of the quantities and rates of discharge of nondomestic sewage into a sewer; and
- (c) An accessible entry so that any authorized employee of the City may readily and safely inspect and monitor the nondomestic discharges.

(2) Pretreatment Facilities To Be Maintained

Pretreatment facilities shall be maintained in satisfactory and effective operation by the user at the user's expense. Operation and maintenance records shall be maintained by the user as specified in the user's discharge permit.

(3) Accidental Discharge/Slug Control Plans

Users discharging nondomestic wastewater into the POTW shall provide protection from the accidental discharge of prohibited wastes. Prior to the commencement of any nondomestic discharge and at least once every two years the Control Authority shall evaluate whether each significant user requires an accidental discharge/slug control plan. The Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Director may develop such a plan for any user. Each plan shall include the following as a minimum:

- (a) Description of discharge practices, including nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the Director of any accidental or slug discharge, as required by section 10.407 of this ordinance.
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training,

building of containment structures or equipment, measures for containing toxic organic pollutants, measures and equipment for emergency response and any other procedures deemed necessary to prevent accidental/slug discharges from entering the POTW.

(4) Additional Pretreatment Measures

- (a) Whenever deemed necessary, the Control Authority may require user to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of the ordinance.
- (b) Grease, oil and sand interceptors shall be provided when deemed necessary by the Control Authority for the proper handling of wastewater containing excessive amounts of grease and oil or sand. Such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (c) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

10.410 INSPECTION, SURVEILLANCE, AND MONITORING

(1) Minimum Monitoring Requirements

- (a) Significant users shall be required to self-monitor to meet, at a minimum, the requirements of the General Pretreatment Regulations.
- (b) Users that have the potential to routinely discharge nondomestic sewage that contains concentrations of BOD, TSS, and COD higher than those defined for domestic sewage herein shall be independently monitored by the City for flow, BOD, TSS, COD and pH at least once a year. The Control Authority shall determine which users have this potential.
- (c) The City shall independently monitor all other users for flow, BOD, TSS, COD, and pH at a frequency in relation to their potential impact on the POTW, as determined by the Control Authority.
- (d) The Control Authority may increase the frequency and/or add parameters to a user's self-monitoring program or the City's independent monitoring program to ensure compliance with the Pretreatment Requirements.

(2) Sampling and Analysis

- (a) Significant users shall meet the requirements of the General Pretreatment Regulations for sampling and analysis. Other users shall meet the requirements for sampling and analysis as stated herein or in the user's control document.
- (b) For all users, containers, preservation techniques, and holding times for samples shall comply with methods and procedures found at Title 40 Code of Federal Regulations, Part 136.
- (c) For all users, sample analysis shall be in accordance with approved test procedures. The Control Authority, at this discretion, may specify which approved test procedure shall be used.
- (d) Type of samples (grab or composite) and flow measurement shall be consistent with the type of discharge and parameters being regulated and shall be specified by the Control Authority in the permit.

(3) Control Point

A user shall provide a control point for the purpose of sampling and flow measurement. The location and design of the control point shall be approved by the Control Authority. The control point shall be placed so that nondomestic sewage can be sampled and measured prior to any commingling with domestic sewage or nonprocess flows. Written approval of exceptions to this requirement shall be obtained by a user from the Control Authority. It is recommended that the control point for sampling and flow measurement be at the same location. Flow may be determined by water supply meter measurements if no other flow device is available and no other source of raw water is used. Other methods for estimating wastewater discharge flow must be approved by the Control Authority.

(4) Inspection and Entry

The Control Authority or his duly authorized representative, Federal and State Officials, upon presentation of credentials and other documentation as may be required by law, shall be permitted to gain access to such properties as may be necessary for the purpose of inspection, observation, sampling, set up and use of monitoring equipment, and inspection and copying of records having a direct bearing on the discharges of nondomestic sewage. Unreasonable delays in allowing access to the user's premises shall be a violation of this ordinance. The Control Authority may obtain search warrants to secure access to facilities/property.

(5) Use of Contractors

The Control Authority may select an independent contractor to conduct the independent monitoring by the City.

10.411 ENFORCEMENT

(1) Administrative Order

In addition to any other actions or remedies authorized in this ordinance, the Control Authority or its duly authorized representative is authorized to enforce this ordinance through the exercise of any one or more of the following administrative actions. Unless otherwise expressly set forth herein, the selection or use of one such action or remedy by the Control Authority shall not be construed to prevent the Control Authority from pursuing any other enforcement actions or remedies nor require the pursuit of a particular action or remedy as a condition precedent to the use of any other such action or remedy.

(2) Notice of Violation

The Control Authority shall serve a user that is found noncompliant with the Pretreatment Requirements with a notice stating the nature of the noncompliance. This notice may or may not be in writing.

Any violation of pretreatment standards incurs immediate liability. Each day of violation constitutes a separate noncompliance.

Within thirty (30) days after the date of receipt of this notice, a user shall submit a written response to the Control Authority with an explanation of the noncompliance, what steps are currently being taken to prevent the noncompliance, and a plan for the correction and continued prevention of the noncompliance. Submission of this response in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(3) Consent Order

The Control Authority may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

(4) Show Cause Hearing

The Control Authority may order a user which has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit or enforcement action issued, or any other pretreatment requirement, to appear the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served by hand or certified mail at

least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(5) Compliance Order/Compliance Schedules

(a) Applicability

If a user cannot comply with the pretreatment standards in section 10.403 or any other pretreatment requirement, the Control Authority may provide a compliance order containing a schedule for achieving compliance.

(b) Allowable Time for Compliance

The compliance schedule shall be the shortest time in which the user is able to provide pretreatment facilities or changes in operation and maintenance that will achieve compliance. If a user is given a compliance schedule for national categorical standards, the completion date of this schedule shall not be later than the compliance date established for the applicable national categorical standard and shall be in accordance with the General Pretreatment Requirements. A user shall not continue discharging in noncompliance of the Pretreatment Requirements beyond the time limit provided in the compliance schedule.

(c) Form of Compliance Schedule

Compliance schedules may be provided by the Control Authority by notice of noncompliance, enforcement order, or as part of the discharge permit. The Control Authority has the right to re-open a user's discharge permit in order to add a compliance schedule.

(6) Cease and Desist Order

When the Control Authority finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Control Authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventive actions may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(7) Authority to Disconnect Service

(a) Conditions for Disconnection

The City shall have the right to disconnect a user's sewer service when a user's discharge reasonable appears to:

- (i) Damage sewer lines or POTW treatment processes;
- (ii) Cause the BCRWS to be noncompliant with the conditions of its discharge permits;
- (iii) Present an endangerment to the environment or which threatens to interfere with the operation of the POTW; or
- (iv) Present an imminent endangerment to the health or welfare of persons.

(b) Notification

In the case of an imminent endangerment to the health or welfare of persons, the Control Authority shall give oral or written notice to a user before disconnecting sewer service. Under all other conditions for disconnection, the control Authority shall give written notice to a user before disconnection. Within ten (10) days after receipt of notification of disconnection, the user must submit a written response to the Control Authority with an explanation of the cause of the problem and what measures have and will be taken to prevent any future occurrence. Submission of this response in no way relieves the user of liability for any violations occurring before or after receipt of the notice of disconnection.

(c) Reconnection of Service

The user's sewer shall remain disconnected until such time that the user has demonstrated that the cause of this noncompliance has been eliminated.

(d) Liability

The City shall not be liable for any resulting damage to the user's property as a result of disconnection under the conditions for disconnection.

(8) Termination of Permit

A user that violates any of the following conditions may be subject to permit termination:

- (a) Failure to report a reasonable estimate of the volume and quality of its nondomestic sewage.
- (b) Failure to notify the Control Authority of a change in process or operation which would significantly change the nature or increase the quantities of materials discharged to the POTW that would cause the user to be noncompliant with its discharge permit requirements or the Pretreatment Requirements.
- (c) Refusal of right of entry to the user's premises in accordance with Subsection I of this ordinance.
- (d) Intentional violation of permit conditions.
- (e) Falsifying information.
- (f) Failure to pay sewer charges or fines.

(9) Injunctive Relief

The Control Authority may seek injunctive relief to restrain or compel actions of a user.

(10) Civil and Criminal Penalties

The Control Authority has the right to seek or assess civil or criminal penalties in at least the amount of one thousand dollars (\$1,000) per day for each violation of the user's permit or the Pretreatment Requirements.

10.412 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

(1) Act of God Defense

- (a) The Act of God defense constitutes a statutory affirmative defense [Texas Water Code Section 7.251] in an action brought in municipal or State court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe, the event is not a violation of the ordinance or permit. Act of God does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- (b) An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:

- (i) An event that would otherwise be a violation of the pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
 - (ii) The industrial user has submitted the following information to the POTW and the City within twenty-four (24) hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five (5) days):
 - 1. A description of the event, and the nature and cause of the event;
 - 2. The time period of the event, including dates and times or, if still continuing, the anticipated time the event is expected to continue; and
 - 3. Steps being taken or planned to reduce, eliminate and prevent recurrence of the event.
 - (c) Burden of Proof In any enforcement proceeding, the industrial user seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.
 - (d) Users shall control production of all discharges to the extent necessary to maintain compliance with pretreatment requirements upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power for the treatment facility is reduced, lost, or fails.
- (2) Bypass
- (a) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (b) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
 - (c) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation.

- (d) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority at least ten days before the date of the bypass, if possible.
- (e) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment requirements within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days from the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if proper oral notice has been given.
- (f) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as stated herein.
- (g) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions in paragraph (f) above.

10.413 CONFIDENTIALITY

Information and data pertaining to an industrial user or other person subject to the ordinance obtained from reports, surveys, wastewater discharges, permit applications, wastewater discharge permits, monitoring programs, and from city inspection, sampling and enforcement activities shall be available to the public in accordance with the laws of the State of Texas subject to the following:

- (1) Such information shall be withheld from disclosure if the industrial user or the person subject to this chapter makes a specific and timely request in writing and demonstrates to the satisfaction of the Control Authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secret under applicable law;

- (2) When timely requested and demonstrated that such information should be held confidential, the portions of the information that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to the TPDES or pretreatment and monitoring program and in enforcement proceedings involving the person furnishing the information;
- (3) Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be made available to the public without restriction.

10.414 RIGHT OF REVISION

The City shall have the right to revise the Pretreatment Requirements to ensure compliance with federal, state, or local requirements.

10.415 PUBLIC PARTICIPATION

The City shall comply with the public participation requirements of Title 40 Code of Federal Regulations, 403.8(f)(2)(vii) in the enforcement of these Pretreatment Requirements.

(Ordinance No. 2463 of March 8, 1990 as amended by Ordinance No. G-94-05-26-9B of May 26, 1994 and Ordinance No. G-03-08-28-9B1 of August 28, 2003)

SECTION 10.500 CREATION OF MUNICIPAL UTILITY DISTRICTS

Each request or petition to the city for its written consent for the creation of a municipal utility district shall be accompanied by a fee of five thousand dollars (\$5,000.00) which shall be paid to the city to defray the expense of reviewing and responding to said request or petition.

(Ordinance No. 2078 of November 22, 1983)

SECTION 10.600 ENVIRONMENTAL SERVICES FEES

In order to ensure an equitable cost recovery system, the Control Authority shall periodically review the fees and adjust them as appropriate.

10.601 WASTEWATER DISCHARGE PERMIT APPLICATIONS AND SURCHARGE**(1) Applicability**

This section shall be applicable to all nondomestic dischargers to the Brushy Creek Regional Wastewater System.

(2) Definitions

All words and phrases used in this Section shall have the same meaning as the words and phrases defined in Section 10.402.

(3) Wastewater Discharge Permit Application

A user is subject to the following application fees:

	Significant Users	Other Users
New Permit	\$100	\$25
Permit Renewal	\$100	\$25
Permit Modification	\$100	\$25

Removal credit - A fixed fee for a removal credit application cannot be given because of the circumstances of each user and constituent the credit is applied for are highly variable. Any user or group of users wishing to apply for a removal credit shall assume responsibility for all costs incurred by the City.

(4) Surcharge for Higher Concentrations

Users shall be assessed a sewer surcharge for nondomestic sewage that contains concentrations of TSS and BOD/COD higher than those defined for domestic sewage herein. The surcharge shall be in addition to any other sewer charges required by other City ordinances. If a user has more than one nondomestic outfall identified in a permit, the surcharge shall be applicable to the daily average total of all nondomestic discharges and not the individual nondomestic discharges.

(a) When Surcharge Shall Be Applied

A user shall be subject to a surcharge when its nondomestic discharge daily average total:

- (i) Exceeds a TSS concentration of two hundred-fifty (250) mg/L; and/or
- (ii) Exceeds a BOD concentration of two hundred-fifty (250 mg/; or
- (iii) Exceeds a COD concentration of four hundred-fifty (450) mg/L.

(b) Computation of Surcharge

The City shall sample for both TSS and either BOD or COD. Computations of surcharges shall be based on the formulas below and for those concentrations that exceed the levels set forth in subsection (a) above, the surcharge shall be applied to that excess. The surcharges for individual TSS and BOD/COD are additive.

(i) BOD surcharge

$$S_{\text{BOD}} = V \times 8.34 (A[\text{BOD} - 250])$$

(ii) TSS surcharge

$$S_{\text{TSS}} = V \times 8.34 (B[\text{TSS} - 250])$$

(iii) COD surcharge

$$S_{\text{COD}} = V \times 8.34 (C[\text{COD} - 450])$$

where:

S - Sum of surcharges in dollars that will appear on the user's monthly bill.

V - Monthly average volume of nondomestic discharge in millions of gallons whichever is the least of the following volumes: (1) total monthly water consumption during the billing period, (2) the average water consumption for the billing periods of December, January, and February of each fiscal year, or; (3) the total estimated or measured nondomestic discharge as determined by methods specified in the user's permit.

8.34 - Conversion factor for units of measure in surcharge equations.

A - \$0.298 per pound of BOD

B - \$0.298 per pound of TSS

C - \$0.298 per pound of COD

BOD - BOD concentration in mg/L. For more than one nondomestic discharge, this shall be the flow-weighted concentration.

TSS - total suspended solids concentration mg/L. For more than one nondomestic discharge, this shall be the flow-weighted concentration.

COD - COD concentration in mg/L. For more than one nondomestic discharge, this shall be the flow-weighted concentration.

250 - normal daily average domestic BOD and TSS concentration in mg/L.

450 - normal daily average domestic COD in mg/L.

(c) Application of Surcharge

Surcharge will apply directly to the water meter customer assigned to the discharging user(s).

(d) Sampling and Analysis

The City shall sample for TSS, and either BOD or COD. The time of sampling shall be at the sole discretion of the Control Authority. The Control Authority may select an independent contractor to conduct the sampling and/or analyses.

(e) Sampling/Control Point

The user shall provide and the Control Authority shall designate a sampling/control point for the purpose of sampling. The location and design of the control point shall be approved by the Control Authority.

This sampling point shall be free of impediments and easily accessible by city personnel.

(f) Period of Surcharge

If analyses for TSS and/or BOD/COD shows that a surcharge is applicable, the surcharge shall be applied to the monthly water bill for a period of six (6) months.

(g) Costs of Analyses

When analyses show that a surcharge shall be applied, a fee of fifty dollars (\$50) shall be added to a user's bill to cover the sampling, handling, and laboratory analyses. When analyses show that a surcharge shall not be applied, then this fee shall not be added to the user's bill.

(h) Contested Charges

User must contest any/all charges within fourteen (14) days of issuance of surcharge notification.

10.602 HOUSEHOLD HAZARDOUS WASTE (HHW) APPOINTMENT FEES(1) Definitions

Household Hazardous Waste (HHW) - leftover residential household products that contain corrosive, toxic, ignitable or reactive ingredients are considered to be "household hazardous waste" or "HHW". Products such as paints, cleaners, oils, batteries, and pesticides that contain potentially hazardous ingredients require special care when disposed.

(2) Applicability

The fees described herein do not apply to scheduled collection events for City of Round Rock residents. At all other times, should a City of Round Rock resident desire to schedule a time to dispose of a HHW product, such resident shall be charged an appointment fee.

(3) Fees for Appointment-Based Collection of Household Hazardous Waste

Appointment Fee	\$10.00
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(4) Payment of Fee

Due at time of scheduled appointment.

10.603 ANALYTICAL AND SAMPLING FEES (1) Applicability

The fees described herein do not apply to any sampling event or analytical work initiated by the City for the purposes of its own routine testing and monitoring.

(2) Analytical Fees(a) Analytical Fees for Water/Wastewater

Fees for analytical tests are as follows:

Biochemical Oxygen Demand (BOD)	\$15.00 per sample
Total Suspended Solids (TSS)	\$15.00 per sample
Chemical Oxygen Demand (COD)	\$15.00 per sample
Hardness	\$ 5.00 per sample
Alkalinity	\$ 5.00 per sample
Turbidity	\$ 5.00 per sample
Chlorine	\$ 5.00 per sample
pH	\$ 5.00 per sample
Fluoride	\$15.00 per sample
Ammonia	\$15.00 per sample
Total Dissolved Solids (TDS)	\$15.00 per sample
Percent Solids	\$15.00 per sample

(b) Water Bacteriological Fees

24 hour Present/Absence Test for Total /Fecal Coliform	\$12.00 per sample
18 Hour Presence/Absence Test for Total/Fecal Coliform	\$15.00 per sample
24 or 18 hour Enumeration Test for Total/Fecal Coliform	\$15.00 per sample

Bacteriological samples that are approved to be analyzed outside normal working hours will incur a 2.0 x fee.

The above-stated fees cover reporting requirements to the appropriate state agencies for municipalities.

(3) Sampling Fees

- (a) The sampling fee for wastewater discharge is \$75.00 per sampling event.
- (b) The wastewater discharge sampling event consists of a twenty-four (24) hour composite sample taken by automatic sampler. The scheduling of this service is subject to approval and availability of the appropriate Public Works personnel.

_____ (4) Payment of Fees

Fees for analytical or sampling work requested by a water or wastewater customer of the City shall be billed to the customer on the monthly utility bill. Fees for analytical or sampling work requested by persons or entities that are not water or wastewater customers of the City must be paid in advance at the Environmental Services Laboratory. Requests for analytical or sampling work must be accompanied by the appropriate paperwork and evidence or payment, if applicable.

(Ordinance No. G-97-03-27-10A of March 27, 1997 as amended by Ordinance No. G-03-08-28-9B1 of August 28, 2003 and Ordinance No. G-03-12-04-7D1 of December 4, 2003)

10.604 RECYCLING CENTER FEES

_____ (1) Purpose

The purpose of this section is to establish a cost recovery mechanism for the handling and managing of materials at the City of Round Rock Recycling Center, making use of the Recycling Center fair and equitable to all persons.

(2) Definitions

_____ The following words shall have the meanings given them in this subsection.

Brush means branches, limbs, and other parts of trees, shrubs, bushes, and similar vegetation which have been cut, lopped, or broken. The term “brush”, as used herein, does not include grass clippings, leaves, or construction debris.

Large Load means a load of brush that is greater than four (4) cubic yards in volume.

Medium Load means a load of brush that is greater than or equal to two (2) but less than four (4) cubic yards in volume.

Resident means a person or individual living within the corporate boundaries of the City of Round Rock, Texas.

Small Load means a load of brush less than two (2) cubic yards in volume that is generated by normal residential yard maintenance.

(3) Brush Handling

_____ The fees for disposing of brush at the City of Round Rock Recycling Center are as follows:

(a)	Small Load Resident	no charge
(b)	Small Load Nonresident	\$15.00 per load
(c)	Medium Load	\$20.00 per load
(d)	Large Load	\$40.00 per load

(Ordinance No. G-97-03-27-10A of March 27, 1997)

SECTION 10.700 CROSS-CONNECTION CONTROL AND PREVENTION

10.701 CROSS-CONNECTION STANDARDS

Every source of contamination or possible contamination from any contaminant which originates from, or is located at, a residential or commercial establishment, and said source of contamination or possible contamination is connected to any public water supply or provides water to the public shall be equipped with the protection required under the provisions of this Section.

10.702 DEFINITIONS

For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a word used in this Section is not contained in the following list, it shall have the definition listed in Subsection 10.105, Round Rock Code of Ordinances or in the most recent edition of the *Manual of Cross Connection Control* published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California. The following definitions shall apply to this Section:

- (1) Air gap shall mean a physical separation between the free flowing discharge end of a potable water supply piping and/or appurtenance and an open or non-pressure receiving vessel, plumbing fixture or other device. An "approved air-gap separation" shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device, and shall not be less than one (1) inch in any case.
- (2) Atmospheric vacuum breaker backflow prevention device or atmospheric vacuum breaker or AVB shall mean a device used to prevent backsiphonage in non-health hazard conditions. This device cannot be tested and cannot prevent backpressure backflow.
- (3) Approved Backflow Prevention Assembly or Backflow Assembly or Assembly shall mean an Assembly to counteract back pressure or prevent backsiphonage.
- (4) Auxiliary supply shall mean any water source or system other than the public water system that is or may be available in a building or on real property, including ground water or surface water used for industrial, irrigation or any other purpose.
- (5) Backflow shall mean the flow in the direction opposite to the normal flow of the City's water system, or the introduction of any foreign liquids, gases, or substances into the City's water system.
- (6) Backflow Prevention Assembly Tester shall mean a tester who is qualified to test backflow pressure assemblies on any domestic, commercial, industrial or irrigation service except firelines.

- (7) Backpressure shall mean any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow of water in the City's water system, or the introduction of fluids, mixtures or substances from any source other than the intended source.
- (8) Backsiphonage shall mean the flow of water or other liquids, mixture or substances into the distribution pipes of a potable water supply system from any source, other than its intended source, caused by a sudden reduction of pressure in the potable water supply system.
- (9) Boresight or Boresight to daylight shall mean the provision of adequate drainage for assemblies installed in vaults through the use of an unobstructed drain pipe.
- (10) Commercial establishment shall mean any property or location which is used for the manufacture, production, storage, wholesaling or retailing of any good or ware which is, or may be, placed in the flow of commerce, or any property or location which is used for the provision of any service for compensation.
- (11) Contaminants shall mean any foreign material, solid or liquid, not common to the potable water supply which makes or may make the water unfit or undesirable for human or animal consumption.
- (12) Contamination shall mean the admission of contaminants into the potable water supply system.
- (13) Cross-connection shall mean any connection, physical or otherwise, between a potable water supply system and any plumbing fixture or any tank, receptacle, equipment or device through which it may be possible for any nonpotable, used, unclean, polluted and/or contaminated water, or other substances, to enter into any part of such potable water system under any condition or set of conditions.
- (14) Cross-connection control device shall mean any device placed upon any connection, physical or otherwise, between a potable water supply system and any plumbing fixture or any tank, receptacle, equipment or device, which is designed to prevent nonpotable, used, unclean, polluted and/or contaminated water, or other substances, from entering into any part of such potable water system under any condition or set of conditions.
- (15) Degree of hazard shall mean the hazard classification that shall be assigned to all actual or potential cross-connections.
 - (a) Health hazard means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.
 - (b) High hazard means the classification assigned to an actual or potential cross-connection that potentially could allow a substance that may cause illness or death to backflow into the potable water supply.

- (c) Low hazard means the classification assigned to an actual or potential cross-connections that potentially could allow a substance that may be objectionable but not hazardous to a Person's health to backflow into the potable water supply.
 - (d) Plumbing hazard means an internal or plumbing-type cross-connection in a consumer's potable water system that may be either a pollutional or a contamination-type hazard.
 - (e) Pollutional hazard means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined herein. Maximum degree of intensity of pollution which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances.
 - (f) System hazard means an actual or potential threat of severe danger to the physical properties of the public or consumer's potable water supply or of pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.
- (16) Double check detector backflow prevention assembly or double check detector or DCDA shall mean an assembly composed of a line-size approved double check assembly with a bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for very low rates of flow.
 - (17) Double check valve backflow prevention assembly or double check assembly or double check or DC shall mean an assembly which consists of two independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks.
 - (18) Fireline Tester shall mean a tester who is employed by a state-approved fireline contractor and is qualified to test assemblies on firelines only.
 - (19) Mobile unit shall mean any operation which may have the potential to introduce contaminants into a potable water system from a mobile source. These include, but are not limited to, carpet-cleaning vehicles, water-hauling vehicles, street-cleaning vehicles, liquid-waste vehicles, power-wash operations and pest-control vehicles.
 - (20) Non-residential use shall mean water used by any Person other than a residential Customer of the water supply and include all uses not specifically included in "residential uses."

- (21) Point-of-use isolation shall mean the appropriate backflow prevention within the consumer's water system at the point at which the actual or potential cross-connection exists.
- (22) Potable water supply shall mean any water supply intended or used for human consumption or other domestic use.
- (23) Premises shall mean any piece of property to which water is provided, including all improvements, mobile structures, and structures located on the property.
- (24) Premises Isolation shall mean the appropriate backflow prevention at the service connection between the public water system and the water user.
- (25) Pressure vacuum breaker backflow prevention assembly or pressure vacuum breaker or PVB shall mean an assembly which provides protection against backsiphonage, but does not provide adequate protection against backpressure backflow. The assembly is a combination of single check valve with an AVB and can be used with downstream resilient seated shutoff valves. In addition, the assembly must have suction and discharge gate valves and resilient seated test cocks which allow the complete testing of the assembly.
- (26) Public water system or water system shall mean any public or privately owned water system which supplies water for public domestic use. The system will include all services, reservoirs, facilities, and any equipment used in the process of producing, treating, storing, or conveying water for public consumption.
- (27) Reduced pressure principle backflow prevention assembly or reduced pressure principle assembly or RP assembly or RP shall mean an assembly containing two independently acting approved check valves together with a hydraulically-operated, mechanically independent pressure differential relief valve located between the check valves and below the first check valve. The assembly shall include properly located resilient seated test cocks and a tightly closing resilient seated shutoff valve the end of the assembly.
- (28) Reduced pressure principal detector backflow prevention assembly or reduced pressure detector or RPDA shall mean an assembly composed of a line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter must be capable of accurately registering very low rates of flow.
- (29) Regulatory Authority shall mean the Director of the City, or his designee, who is vested with the authority and responsibility to administer this Section.
- (30) Representative of the water system shall mean the Director of the City, or his designee, who is vested with the authority to perform cross-connection control duties which shall include, but are not limited to, cross-connection inspections and water use surveys.

- (31) Residential use shall mean water use of any residential Customer of the water supply and shall include, but is not limited to, single family dwellings, duplexes, multiplex, housing and apartments where the individual units are each on a separate meter; or, in cases where two or more units are served by one meter, the units are full-time dwellings.
- (32) Service connection shall mean the point of delivery at which the water supplier loses control of the water.
- (33) Spill-resistant pressure vacuum breaker or SVB shall mean an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly must be equipped with a properly located resilient seated test cock and tightly closing resilient seated shutoff valves attached at each end of the assembly.
- (34) Thermal expansion shall mean heated water that does not have the space to expand.
- (35) Used water shall mean water supplied by a public water system to a water user's system after it has passed through the service connection.

10.703 RIGHT-OF WAY ENCROACHMENT.

No Person shall install or maintain an assembly, or any part thereof, upon or within any City right-of-way except as provided in this section.

- (1) An assembly required by the City may be installed upon or within any City right-of-way only if the owner demonstrates to the City's satisfaction that there is no other feasible location for installing the assembly, and installing it in the right-of-way will not interfere with traffic, utilities or any other purpose for which the right-of-way exists. The Person installing an assembly must obtain express, written approval from the City regarding the location, height, depth, enclosure, and other requisites of the assembly prior to its installation.
- (2) All permits and inspections required by any applicable code or regulation to perform work in the right-of-way shall be obtained prior to the installation of the assembly.
- (3) The assembly shall be installed below or flush with the surrounding grade except when it is not practicable to install it in this manner. Any assembly or portion of an assembly which extends aboveground shall be located no closer than eighteen (18) inches to the face of any curb.
- (4) The City shall not be liable for any damage done to or caused by an assembly installed in a right-of-way. A Person that installs an assembly in a City right-of-way shall repair, clean up, and restore any and all streets, alleys, highways,

public thoroughfares, public utility easements, public ways, and other public property within a reasonable time, not to exceed ten (10) days, after the completion of the work, to as good or better condition as existed prior to the commencement of the work, and to the satisfaction of the Director.

- (5) A property owner shall, at the request of the City and at the owner's expense, relocate an assembly that encroaches upon any City right-of-way when such relocation is deemed necessary by the City.
- (6) A Person commits an offense if he/she fails to relocate an assembly located in or upon any City right-of-way after receiving a written order from the Regulatory Authority requesting such relocation.

10.704 MULTIPLE CONNECTIONS

The owner of any premises requiring multiple service connections for adequacy of supply and/or fire protection must install an assembly on each of the additional service lines to the premises. The type of assembly required will be determined by the degree of hazard that may occur in the event of an interconnect between any of the buildings on the premises.

10.705 PROTECTION REQUIRED; INSTALLATION

- (1) The assembly protection which is required under this Section shall be any of the duly authorized assemblies listed in the Uniform Plumbing Code, or as determined by the Regulatory Authority. Each assembly must be approved in writing by the regulatory authority in conjunction with the chief building inspector of the City prior to installation. Failure to obtain such written approval prior to installation of the assembly may result in the assembly failing to meet final approval by the Regulatory Authority. The Regulatory Authority shall determine the type and location of assembly to be installed within the area served by the City. An assembly shall be required in each of the following circumstances, but the Regulatory Authority is not limited to requiring the installation of an assembly only in the following circumstances:
 - (a) The nature and extent of any activity on or near the premises, or the materials used in connection with any activity on or near the premises, or materials stored on or near the premises, may contaminate or pollute the potable water supply.
 - (b) Premises having any one or more cross-connections identified or one or more cross-connections present on the premises.
 - (c) One or more cross-connections are present on the premises and the cross-connection(s) is (are) protected by an atmospheric vacuum breaker device (AVB).

- (d) Internal cross-connections are present that are not correctable.
- (e) Intricate plumbing arrangements are present which make it impractical to ascertain whether cross-connections exist.
- (f) There is a repeated history of cross-connections being established or re-established on the premises.
- (g) There is unduly restricted entry so that inspections for cross-connections cannot be made with sufficient frequency to assure that cross-connections do not exist.
- (h) Materials are being used on the premises such that, if backflow should occur, a health hazard may result.
- (i) Installation of an approved backflow prevention assembly is deemed to be necessary to accomplish the purpose of these regulations in the sole judgement of the City.
- (j) An appropriate cross-connection survey report form has not been filed with the Utility Department of the City after a request by the City.
- (k) A fire sprinkler system on the premises is connected to the city's water system.
- (l) All new construction if deemed necessary as a result of the Customer Service Inspection referred to in Subsection 10.710. The type of assembly required shall be commensurate with the degree of hazard as determined by the Regulatory Authority.
- (m) When a building is constructed on commercial premises, and the end use of such building is not determined or could change, a reduced pressure principle backflow prevention assembly must be installed at the service connection that supplies water for public domestic use.
- (n) Any used water return system is present on the premises.
- (o) In the event a point-of-use assembly has not had the testing or repair done as required by this Section, a premises isolation assembly will be required.
- (p) If it is determined that additions or alterations have been made to the plumbing system without obtaining proper permits, premises isolation may be required.
- (q) All multistory buildings or any building with a booster pump or elevated storage tank.

- (r) Retrofitting will be required on all high hazard connections, and in additional circumstances in which the City deems it necessary to retrofit.
- (2) All assemblies installed after the effective date of this Section shall be installed in a manner designed to facilitate ease of inspection by the Regulatory Authority of the City. Any currently installed assemblies that, in the opinion of the Regulatory Authority, are located in inaccessible locations, or where the tester is subjected to physical danger, shall be relocated to location approved in writing by the Regulatory Authority.

10.706 TESTING OF ASSEMBLIES

- (1) The Regulatory Authority shall inspect and test, or cause to be inspected and tested, all assemblies in each of the following circumstances:
 - (a) Immediately after installation;
 - (b) Whenever the assembly is relocated;
 - (c) A minimum of once a every twelve (12) months for assemblies that are used in high-hazard applications. Assemblies that are used in non-hazard applications must be tested a minimum of once every ten (10) years;
 - (d) Premises that have been vacated and unoccupied for twelve (12) months, prior to reoccupancy; or
 - (e) Immediately after repairs have been made to the assembly.
- (2) All assembly testing shall be performed by a licensed Backflow Prevention Assembly Tester registered with the Regulatory Authority.
- (3) Duly authorized employees of the City are authorized to enter any public or private property at any reasonable time for the purpose of enforcing this Section. Persons and occupants of premises which are provided water service by the City, either directly or indirectly, shall allow the City ready access at all reasonable times to all parts of the premises for the purposes of inspection, testing, records examination, or in the performance of any of their duties. Where Persons or occupants of premises have security measures in force which would require proper identification and clearance before entry onto their premises, the Persons and occupants of the premises shall make necessary arrangements with their security personnel so that upon presentation of suitable identification, personnel from the City will be permitted to enter, without delay, for the purposes of performing their responsibilities.
- (4) The City shall not be liable to any Person for any damage to an assembly that occurs during testing.

- (5) The Regulatory Authority may cause a water use survey to be conducted at any commercial establishment located in the City which is served by a public water supply or which provides water to the public. Upon determination by the Regulatory Authority that the commercial establishment falls under the provisions of this Section and requires an assembly, the Regulatory Authority shall issue a notice to abate the condition or order the commercial establishment to install the proper assembly.
- (6) It is the responsibility of any Person who owns or controls property subject to this Section to have all assemblies tested in accordance with this Section. Assemblies may be required to be tested more frequently if the Regulatory Authority deems it necessary.
- (7) All results from assembly testing by a licensed Backflow Prevention Assembly Tester shall be recorded, in writing, on a form that may be obtained by the tester from the City.

10.707 THERMAL EXPANSION

It is the responsibility of any Person who owns or controls property subject to this Section to eliminate the possibility of thermal expansion if a closed system has been created by the installation of an assembly.

10.708 PRESSURE LOSS

Any reduction in water pressure caused by the installation of an assembly is not the responsibility of the City. The City shall not be liable to any Person for damages resulting from any reduction in water pressure caused by the installation of an assembly.

10.709 RESIDENTIAL SERVICE CONNECTIONS

Any Person who owns or controls any residential property which has been determined to have an actual or potential cross-connection will be required to eliminate the actual or potential cross-connection or have an approved backflow assembly installed in accordance with this Section.

10.710 CUSTOMER SERVICE INSPECTION

- (1) Pursuant to Commission water system regulations, a Customer Service Inspection for cross-connection control shall be completed by the City prior to providing continuous water service in each of the following circumstances:
 - (a) Water service to a newly constructed facility or previously nonexistent premises;
 - (b) After any material improvement to building(s) or premises;

- (c) Any correction or addition to the plumbing of any facility or premises served by the City; or
 - (d) The Regulatory Authority deems it necessary.
- (2) Permanent water service shall not be supplied to a newly constructed facility until after the Customer Service Inspection is completed.

10.711 INSTALLATION GUIDELINES AND REQUIREMENTS FOR BACKFLOW PREVENTION ASSEMBLIES

- (1) The following requirements shall apply to the installation of all assemblies.
 - (a) Approved backflow prevention assemblies shall be installed in accordance with State law, Commission Rules, this Section, and any other applicable law or regulation. The assembly installer must obtain the required plumbing permits and have the installation inspected by the Regulatory Authority.
 - (b) With respect to facilities where the Regulatory Authority requires an assembly be installed at the point of delivery of the water supply, the installation of the assembly must be made at a point prior to any branch in the line. Such installation must be made on private property within two (2) feet of the water meter. If deemed necessary, the Regulatory Authority may specify other areas for installation of the assembly. Assemblies that must be installed, or are located on, City rights-of-way are the responsibility of the business or entity that the water line is serving.
 - (c) All assemblies must be protected from damage caused by freezing or other severe weather conditions.
 - (d) All assemblies shall be of a type and model approved in writing by the Regulatory Authority prior to installation.
 - (e) All vertical installations of assemblies must have prior written approval by the Regulatory Authority.
 - (f) Approved backflow prevention assemblies that are larger than 4 inches and installed more than 5 feet above floor level must have a suitable platform for use by testing, inspection, or maintenance personnel.
 - (g) Bypass lines are prohibited. Pipe fittings which could be used for connecting a bypass line must not be installed on the premises.
 - (h) Lines should be thoroughly flushed prior to installation of an assembly. A strainer with blowout tapping may be required ahead of the assembly.

- (i) All facilities that require continuous, uninterrupted water service and are required to have an assembly must make provisions for the parallel installation of assemblies of the same type so that testing, repair and maintenance can be performed without interrupting the water service to the premises. The assemblies should be sized in such a manner that either assembly, operating independently, will provide the maximum flow required.
 - (j) The property owner assumes all responsibility for any damages resulting from installation, operation, and/or maintenance of an assembly. The owner shall be responsible for keeping all assembly vaults reasonably free of silt and debris.
 - (k) Upon completion of installation, the Regulatory Authority shall be notified by the owner of the premises, and all assemblies must be inspected and tested. All assemblies must be approved in writing by and registered with the Regulatory Authority, and the owner of the premises shall provide to the Regulatory Authority the date of installation, manufacturer, model, type, size, and serial number of the assembly, and initial test report.
 - (l) Requests for variances from the specifications and requirements of this Section will be evaluated on a case-by-case basis. Any deviations from this Section must have prior written approval of the Regulatory Authority.
- (2) Upon written approval by the Regulatory Authority, reduced pressure principle backflow prevention assemblies (RPs) may be utilized on premises where a substance is handled that would be hazardous to health if introduced into the potable water system. The RP is normally used in locations where an air gap is impractical. The RP must be effective against both backsiphonage and backpressure.
- (a) RPs must be sized to provide an adequate supply of water and pressure for the premises being served. Flow characteristics are not standard. The manufacturer's specifications must be consulted for specific performance data.
 - (b) Each RP assembly must be readily accessible for testing and maintenance and must be located in an area where water damage to building or furnishings would not occur in the event of a relief valve discharge. The property owner assumes all responsibility for any damage caused by water discharge from a RP assembly.

An approved air gap shall be located at the relief valve orifice of RP assemblies. This air gap shall be at least twice the inside diameter of the incoming supply line as measured vertically above the top rim of the drain and in no case less than one inch (1"). An approved air gap funnel assembly may be used to direct minor discharges away from the assembly; however, this assembly may not be used to control flow in a continuous relief situation. Drain lines to accommodate full relief valve discharge flow should be installed.

- (c) No part of a RP assembly shall be submerged in water or installed in a location subject to flooding. RPs must be installed above grade in well-drained areas.
 - (d) RP assembly enclosures shall be designed for ready access and sized to allow for the minimum clearances established below. Removable protective enclosures should be installed on smaller RP assemblies. Daylight drain ports must be provided to accommodate full pressure discharge from the RP assembly.
 - (e) RP assemblies two (2) inches and smaller shall have at least six (6) inches of clearance on both sides and on top of the assembly, and twelve (12) inches of clearance below and behind the assembly. All RP assemblies larger than two (2) inches shall have a minimum of twelve (12) inches of clearance on the back side, twenty-four (24) inches of clearance on the test cock side. The relief valve opening shall be at least twelve (12) inches (plus nominal size of assembly) above the floor or highest possible water level. Headroom of sixty (60) inches is required in vaults without a fully removable top. A minimum access opening of thirty-six (36) inches in diameter is required on all vault lids.
 - (f) Vertical installation of RP assemblies is prohibited.
 - (g) All RP assemblies must be tested in accordance with this Section. Tests are the responsibility of the premises owner. The owner must notify the Regulatory Authority upon the installation of any assembly.
- (3) Reduced pressure principle detector backflow prevention assemblies (RPDAs) may be utilized in all installations requiring a reduced pressure principle backflow prevention assembly and detector metering.
- (a) RPDAs shall comply with the installation requirements applicable for reduced pressure principle backflow assemblies (RPs).
 - (b) Each line-size RP assembly and the bypass RP assembly must each be tested for proper functioning. A separate test report for each assembly must be completed by the licensed tester.
- (4) Double check valve backflow prevention assemblies (DCs) may be utilized on premises where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system.
- (a) DCs must be sized to provide an adequate supply of water and pressure for the premises being served. The manufacturer's specifications must be consulted for specific performance data.

- (b) Premises where an uninterrupted water supply is critical must be provided with two DC assemblies installed in parallel. DC assemblies should be sized in such a manner that either assembly, operating independently, will provide the maximum flow required.
 - (c) Each DC assembly shall be readily accessible with adequate room for testing and maintenance. DCs may be installed below grade, providing all test cocks are fitted with brass pipe plugs. All vaults shall be well drained, constructed of suitable materials, and sized to allow for the minimum clearances established below.
 - (d) DC assemblies two (2) inches and smaller shall have at least six (6) inches of clearance below and on both sides of the assembly, and if located in a vault, the bottom of the assembly, shall be not more than twenty-four (24) inches below grade. All DC assemblies larger than two (2) inches shall have a minimum clearance of twelve (12) inches on the back side, twenty-four (24) inches of clearance on the test cock side, and twelve (12) inches of clearance below the assembly. Headroom of sixty (60) inches is required in vaults without a fully removable top. A minimum access opening of thirty-six (36) inches in diameter is required on all vault lids. "Y" pattern DCs shall be installed so that the checks are horizontal and the test cocks face upward. These clearance standards apply to all DC assemblies installed in vaults, enclosures or meter boxes.
 - (e) Vertical installations of DCs are allowed only on sizes up to and including four (4) inches and which also meet the following requirements:
 - (i) Equipped with internally spring-loaded check valves;
 - (ii) Flow is upward through assembly;
 - (iii) Manufacturer states their assembly can be used in a vertical position;
 - (iv) Approved by Regulatory Authority.
 - (f) All DCs must be tested in accordance with this Section. Tests are the responsibility of the assembly and premises owner(s). The owner must notify the Regulatory Authority upon the installation of any assembly.
- (5) Double check detector backflow prevention assemblies (DCDA) may be utilized in all installations requiring a DC and detector metering.
- (a) DCDAs shall comply with the installation requirements applicable for DCs.
 - (b) Each line-size DC assembly and the bypass DC assembly must be tested for proper functioning. A separate test report for each assembly must be completed by the licensed tester.

- (6) Pressure vacuum breaker backflow prevention assemblies (PVBs) may be utilized at point-of-use protection only and where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system. PVBs protect against backsiphonage only and shall not be installed where there is potential for backpressure contamination.
 - (a) Each PVB assembly shall be installed a minimum of twelve (12) inches above the highest downstream piping.
 - (b) PVBs shall not be installed in any area subject to flooding or where damage may occur from water discharge.
 - (c) Each PVB assembly shall be readily accessible for testing and maintenance, with a minimum clearance of twelve (12) inches in all areas immediately adjacent to the assembly.
 - (d) All PVBs must be tested in accordance with this Section. Tests are the responsibility of the assembly and premises owner. The owner must notify the Regulatory Authority upon the installation of any assembly.
- (7) Spill resistant pressure vacuum breaker backflow prevention assemblies (SVBs) may be utilized in all installations requiring a pressure vacuum breaker.
 - (a) SVBs shall comply with the installation requirements applicable for pressure vacuum breaker backflow prevention assemblies (PVBs).

10.712 AIR GAP SEPARATION

Air gap separations provide maximum protection from backflow hazards and may be utilized in water systems situated on premises where a substance is present which would be hazardous to health if introduced into the potable water system.

- (1) An air gap separation shall be at least twice the diameter of the supply pipeline measured vertically above the top rim of the receiving vessel, and in no case less than one (1) inch. If splashing is a problem, tubular screens may be attached or the supply line may be cut at a 45° angle, and the air gap distance shall in such case be measured from the bottom of the angle. Hoses shall not be used.
- (2) Air gap separations shall not be altered in any way without prior written approval from the Regulatory Authority, and must be accessible for inspection at all reasonable times.
- (3) Side walls, ribs, or similar obstructions shall be spaced from the inside edge of the spout opening to a distance greater than three (3) times the diameter of the effective opening for a single, or to a distance greater than four (4) times the effective opening for two (2) intersecting walls.

- (4) In systems where there are three (3) or more side walls, ribs, or similar obstructions extending from the water surface to or above the horizontal plane of the spout opening in a manner other than specified in Subsection 10.711(3) above the air gap shall be measured from the top of the wall.
- (5) The effective opening shall be the minimum cross-sectional area at the seat of the control valve or the supply pipe or tubing which feeds the assembly or outlet. If two (2) or more lines supply one (1) outlet, the effective opening shall be the sum of the cross-sectional areas of the individual supply lines or the area of the single outlet, whichever is smaller.

10.713 FIRE SYSTEMS

- (1) An approved DCDA or RPDA shall be installed on fire sprinkler systems comprised of piping material that is not approved for potable water use and/or that does not provide for periodic flow-through during each twenty-four (24) hour period, unless a variance has been granted in writing by the Regulatory Authority. A RPDA must be installed if any solution or substance other than the potable water may be introduced into the sprinkler system.
- (2) Upon the approved installation of a DCDA or RPDA, a cross-connection test report completed by a City registered, licensed fireline tester must be sent to the Regulatory Authority, and such report must include the information required by this Section.

10.714 RESPONSIBILITIES

- (1) All property owners and Persons in control of any premises shall comply with the provisions of this Section. In the event of any changes to the plumbing system, it is the responsibility of the property owners and Persons in control of any premises to notify the Regulatory Authority. All property owners and/or Persons in control of any premises are also responsible for the following:
 - (a) Payment of all costs associated with this Section and the purchase, installation, maintenance, testing, and repair of the assemblies required by this Section.
 - (b) To install and maintain all assemblies in accordance with this Section and acceptable industry practices.
 - (c) All commercial establishments shall annually test, or cause to be tested, all assemblies on the premises. Such tests must be conducted by a licensed Backflow Prevention Assembly Tester who is registered with the City.

- (d) Maintain all assemblies in proper working order at all times, including making repairs as required to ensure the proper functioning of the assemblies.
 - (e) Maintain all assemblies such that the assemblies may be tested by a method that has been approved by the Regulatory Authority.
 - (f) Each record related to assembly installation, testing and repair shall be maintained on the premises for a minimum of three (3) years.
 - (g) If not obtained by the licensed Backflow Prevention Assembly Tester, apply for and obtain a building permit from the Building Official of the City prior to commencing any work, including testing of, on any assembly device.
- (2) All licensed Backflow Prevention Assembly Testers shall:
- (a) Annually register with the Regulatory Authority, pay any required fee, and provide the information required by this Section.
 - (b) Maintain testing equipment in proper working condition/calibration.
 - (c) Maintain the design or operation characteristics of an assembly.
 - (d) Ensure that devices are tested in compliance with accepted industry practices, Commission regulations, and all other applicable laws and regulations.
 - (e) Enter the required testing data, including test gauge serial numbers, on cross-connection test forms obtained from the Regulatory Authority.
 - (f) Report test results to the Regulatory Authority within thirty (30) days of testing.
 - (g) Provide a copy of the completed test report to the property owners and/or Persons in control of any premises subject to the testing requirements of this Section.
 - (h) Maintain each testing and/or repair record for a minimum of three (3) years.
 - (i) If not obtained by the property owner, apply for and obtain a building permit from the Building Official of the City prior to commencing any work, including testing of, on any assembly device.

- (3) The Regulatory Authority shall have the authority to enforce the provisions of this Section, state law, and regulations regarding cross-connections. The Regulatory Authority shall inspect and initially test, or cause to be tested, all assemblies installed pursuant to the requirements of this Section. Permanent water service shall not be provided to new facilities until all assemblies have been tested and are functioning properly. Except in cases where the testing of assemblies must be delayed until the installation of internal production or auxiliary equipment, the Regulatory Authority shall not approve a certificate of occupancy until all assemblies have been tested and are functioning properly.

10.715 BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION REQUIRED

Persons desiring to be approved Backflow Prevention Assembly Testers within the City must provide to the Regulatory Agency proof of Commission licensing, and provide proof that their testing equipment is able to maintain a calibration of plus or minus 0.2 psid accuracy.

10.716 FEES

- (1) All property owners and/or Persons in control of an assembly device shall pay a fee of twenty-five dollars (\$25.00) for each assembly device each time the assembly is tested. If a property owner and/or Person in control of an assembly device fails to test the device within thirty (30) days of the required testing date, the Regulatory Authority may perform the test and assess a testing fee of one-hundred dollars (\$100.00) for each separate assembly device on which the Regulatory Authority performs a test.
- (2) The Regulatory Authority shall assess a testing fee of one hundred dollars (\$100.00) per each separate assembly on which the Regulatory Authority performs a test. This fee applies to, but is not limited to, all newly installed backflow devices. If a newly installed assembly is deemed not to be working properly upon the initial inspection or testing of the assembly, the property owners and/or Persons in control of the premises must make necessary repairs and/or adjustments prior to retesting or reinspection by the Regulatory Authority. A retest fee of fifty dollars (\$50.00) will be assessed for each retest performed by the Regulatory Authority.

10.717 COMPLIANCE FOR LAWN IRRIGATION OR SPRINKLER SYSTEMS

All Persons installing commercial and residential lawn irrigation or sprinkler systems shall annually register with the Regulatory Authority and obtain a permit from the Building Inspection Department of the City prior to making such installations. The installation requirements must comply with standards for the applicable device required by this Section. Interconnections of the potable water supply with an alternate water source are prohibited. Appropriate backflow prevention devices must be installed on the premises if any mechanical injection stations are used with the irrigation or sprinkler system.

10.718 MOBILE UNITS

The connection of a mobile unit to any potable water system is prohibited unless such connection is protected by an air gap or an approved backflow prevention assembly. Prior approval and annual device testing of any air gap or assembly must be obtained from the Regulatory Authority before connecting a mobile unit to any potable water system. Testing fees shall be assessed in the amounts provided for in Section 10.116, and shall be paid by the owner or operator of the mobile units prior to any inspection or testing of the air gap or assembly.

10.719 ENFORCEMENT(1) Violations

- (a) A Person commits an offense if he fails to maintain an assembly in compliance with this Section.
- (b) A Person commits an offense if he fails to comply with a repair order issued by the Regulatory Authority.
- (c) A Person commits an offense if backflow from premises he owns, controls, operates, or manages enters a public water supply system.
- (d) A Person commits an offense if he fails to pay any fees required by this Section.
- (e) A Person commits an offense if he violates any provision of this Section.
- (f) A Person commits an offense if he reinstates water service to premises discontinued or disconnected pursuant to the provisions of this Section, except as directed by the Regulatory Authority.
- (g) A Person owning or in control of premises commits an offense if he allows an unregistered or unlicensed tester to perform testing work on his premises.
- (h) A Person commits an offense if he tests an assembly within the City without being registered with the Regulatory Authority.
- (i) A Person commits an offense if he tests an assembly within the City without being licensed by the Commission.

(2) Punishment for violations; other remedies

- (a) A Person who violates any provision of this Section is guilty of a misdemeanor and upon conviction is punishable by a fine as provided in Section 1.600 of this Code for a violation of an ordinance or regulation governing public health and sanitation.

- (b) In addition to proceeding under the authority of this Section, the City is entitled to pursue any and all other criminal and civil remedies to which it is entitled pursuant to the authority granted by any other applicable laws, regulations, or ordinances.
- (3) In addition to the penalties provided for by this Section, the City is entitled to impose penalties or fees provided for by other provisions of this Code for failure to timely pay any bill, or portion thereof, for water and sanitary sewer services.
- (4) A tester's registration may be revoked by the City if the Regulatory Authority determines that the tester:
 - (a) Has falsely, incompletely, or inaccurately written assembly testing reports;
 - (b) Has used inaccurate gauges;
 - (c) Has used improper testing procedures;
 - (d) Has created a threat to public health or the environment; or
 - (e) Has violated any other provision of this Section.

(Ordinance No. G-98-03-12-9B1 of March 12, 1998 as amended by Ordinance No. G-05-08-11-10B2 of August 11, 2005)

SECTION 10.800 DROUGHT CONTINGENCY AND PEAK DAY WATER USE MANAGEMENT PLAN

10.801 SCOPE

The regulations adopted in the Section shall be referred to as the Drought Contingency and Peak Day Water Use Management Plan (the Plan).

10.802 DECLARATION OF POLICY

It is declared that, because safe and high-quality drinking water is a precious resource, the general welfare requires that the water resources available to the City be put to the maximum beneficial use, and that the waste or unreasonable use of water be prevented, and the conservation of water is to be encouraged with a view to its reasonable and beneficial use in the interests of the people of the City and for the public health, safety, and welfare. The City Council has determined that an aggressive water conservation and drought contingency program will protect the integrity of water supply facilities, prolong the life of existing water sources, and minimize the impacts of water supply shortages, and therefore adopts the following regulations and restrictions on the delivery and consumption of water. Water uses regulated or prohibited under this Plan are considered to be non-essential and continuation of such uses during time of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which may subject the offender to penalties.

10.803 DEFINITIONS

For the purpose of this Section, the definitions set forth in Subsection 10.105 of the Code of Ordinances of Round Rock, Texas shall apply unless the context clearly indicates or requires a different meaning.

10.804 PUBLIC INVOLVEMENT

Opportunity for the public to provide input into the preparation of the Plan or any modifications has been provided by the City by means of scheduling and providing public notice of a public meeting to accept input on the Plan or any modifications. Further, the public is always invited to attend City Council meetings to offer input for future modifications to the Plan. This Plan shall be reviewed and updated at least every five (5) years and shall take into account any revisions to the regional water plan.

10.805 IMPLEMENTATION

The City Manager, or the Manager's designee, upon the recommendation of the Director, is hereby authorized and directed to implement the applicable Conservation Stages upon his or her determination that the implementation is necessary to protect the public health, safety, and welfare. The City Manager or the Manager's designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Section.

10.806 APPLICATION

The provisions of this Section shall apply to all Persons, Customers, and owners of property who use or allow the use of City water, wherever situated. The terms "Person" and "Customer" as used in this Section include individuals, corporations, partnerships, associations and all other legal entities.

10.807 PUBLIC EDUCATION

The City will periodically provide the public with information about the Plan, including information about the conditions under which each Stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each Stage. Drought plan and water conservation information will be provided by public meeting, press releases, utility bill inserts and the City's website.

10.808 COORDINATION WITH REGIONAL PLANNING GROUPS

The service area of the City is located within Brazos G Regional Water Planning Group (RWPG). The City has provided a copy of this Plan and any modifications to the RWPG and a City representative regularly attends scheduled meetings of the RWPG to discuss regional water issues.

10.809 WHOLESALE PROVIDERS

The City contracts for raw water in Lake Georgetown and Lake Stillhouse Hollow from the Brazos River Authority and Lake Travis from the Lower Colorado River Authority. The City will comply with and implement any drought contingency requirements that may be set forth in any contracts with these River Authorities.

10.810 WHOLESALE CUSTOMERS

- (1) All wholesale water contracts require compliance with the City's Plan and drought contingency and water conservation programs. Each contract specifies that the water supplied to the wholesale Customer may be reasonably limited by the City on the same basis and to the same extent as the supply of water to any other Customers within the City.
- (2) All wholesale contracts entered into, renewed or extended after the adoption of this Plan will include provisions for distributing water to the wholesale Customer in accordance with the Texas Water Code, Section 11.039.

10.811 COMPLIANCE; CRITERIA FOR INITIATION AND TERMINATION OF RESPONSE STAGES

- (1) No Customer of the City water utility, nor any Person who uses or purchases water from the City water utility, may knowingly make, cause, use, or permit the use of water received from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Section, or in an amount greater than that use permitted by the conservation Stage in effect under action taken by the City Manager, or his or her designee, in accordance with this Section.
- (2) The Director shall monitor water supply and demand conditions on an ongoing basis and shall determine when conditions warrant initiation or termination of each Stage of the Plan. In addition to monitoring the specific triggers listed below, the Director shall promulgate guidelines as needed that set forth additional criteria for determining when conservation Stages are to be implemented and terminated. The Director shall update the guidelines when, in the opinion of the Director, changed conditions of the utility system require the update. The Director shall include in such guidelines a calendar symbol system designating allowed days for outdoor water use by Customer. The guidelines shall be available for inspection at the City Secretary's office and the Utility Billing office during normal business hours.
- (3) The City has identified three levels of conservation and/or drought conditions at which specific actions will be conducted. The triggering criteria described herein are based on a statistical analysis of the vulnerability of the water source under drought of record conditions, or based upon known system capacity.

(4) Stage I Triggers for Initiation and Termination

(a) Requirements for initiation

- (i) Stage I Use Management criteria shall be in effect from May 1st to September 30th of each year unless there is an announcement by the City Manager of Stage II or III; or
- (ii) Pursuant to requirements specified in the City's wholesale water supply contracts, notification is received from the City's wholesale water suppliers requesting initiation of the Stage I restrictions.

(b) Requirements for termination

Stage I Use Management criteria may be rescinded when all of the conditions listed as triggering events have ceased. Upon termination of Stage I, Year-Round Water Use Management shall become operative.

(5) Stage II Triggers for Initiation and Termination

(a) Supply-Based Triggers for Initiation of Stage II are as follows:

- (i) If for three consecutive days, all of the following occur: Well 4 water table level drops to 40 feet above the pump, Lake Georgetown Reservoir elevation is below 770 feet above Mean Sea Level (msl), and Lake Stillhouse Hollow Reservoir elevation is below 593.5 feet above msl;
- (ii) Supply source contamination which reduces or inhibits the ability to produce potable drinking water;
- (iii) Pursuant to requirements specified in the City's wholesale water supply contracts, notification is received from the City's wholesale water suppliers requesting initiation of the Stage II restrictions; or
- (iv) Any other reason as determined by the Director.

(b) Demand or Capacity-Based Triggers for Stage II are as follows:

- (i) Drinking water treatment capacity has reached ninety percent (90%) for three (3) consecutive days;
- (ii) Total daily demand has reached ninety percent (90%) of the raw water pumping capacity for three (3) consecutive days;
- (iii) Total daily demand is ninety percent (90%) of storage capacity for three (3) consecutive days;
- (iv) Total daily demand is ninety percent (90%) of the treated water pumping capacity for three (3) consecutive days;
- (v) Production or distribution limitations including but not limited to system outages or equipment failure; or
- (vi) Any other reason as determined by the Director.

(c) Requirements for termination of Stage II restrictions.

Stage II of the Plan may end when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage II, Stage I restrictions become operative.

(6) Stage III Triggers for Initiation and Termination

(a) Supply-Based Triggers for Stage III are as follows:

- (i) If for three consecutive days, all of the following occur: Well 4 water table level drops to 35 feet above the pump, Lake Georgetown Reservoir elevation is below 765 feet above msl, and Lake Stillhouse Hollow elevation is below 574.1 feet above msl;
- (ii) Supply source contamination which severely reduces or inhibits the ability to produce potable drinking water;
- (iii) Pursuant to requirements specified in the City's wholesale water supply contract, notification is received from the City's wholesale water supplier requesting initiation of the Stage III restrictions; or
- (iv) Any other reason as determined by the Director.

(b) Demand or Capacity-Based Triggers for Stage III are as follows:

- (i) Drinking water treatment capacity has reached ninety-five percent (95%) for three (3) consecutive days;
- (ii) Total daily demand has reached ninety-five percent (95%) pumping capacity for three (3) consecutive days;
- (iii) Total daily demand is ninety-eight percent (98%) of the storage capacity for three (3) consecutive days;
- (iv) Significant production or distribution limitations including but not limited to system outages and equipment failure; or
- (v) Any other reason as determined by Director.

(c) Requirements for termination of Stage III restrictions:

Stage III of the Plan may end when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage III, Stage II restrictions become operative unless also rescinded.

10.812 YEAR-ROUND WATER USE MANAGEMENT

- (1) A Person who obtains water directly or indirectly from the City shall comply with this Subsection at all times.
- (2) The following acts constitute a waste of water and are prohibited:
 - (a) failing to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;

- (b) operating a permanently installed irrigation system with:
 - (i) a broken head;
 - (ii) a head that is out of adjustment where the arc of the spray head is over a street or parking lot; or
 - (iii) during irrigation, allowing water to run off a property such that there is a trail of water that is running in the street for a distance of fifty (50') feet or greater, or allowing water to pond in the street or parking lot to a depth greater than 1/4 of an inch.

10.813 CONSERVATION RESPONSE STAGES

(1) Stage I-Voluntary Water Use Management

- (a) Stage I will begin on May 1st and end on September 30th of each year and at all other times when announced by the City Manager or as authorized by this Chapter.
- (b) The Stage I announcement will be designed to increase Customer awareness of water conservation and encourage the most efficient use of water. A copy of the current public announcement on water conservation awareness shall be kept on file at the Utilities Department office for inspection by the Commission.
- (c) Water Customers are requested to voluntarily limit the use of water for non-essential purposes and to practice water conservation. Voluntary observance of the regional five-day watering schedule is requested.
- (d) Target: Raise public awareness of the supply situation and achieve a three percent reduction in the daily water demand that would have occurred in the absence of any drought contingency or conservation measures.

(2) Stage II Mandatory Water Use Management

- (a) When there is an announcement of Stage II by the City Manager, the following restrictions apply to all Customers of, or Persons who use water directly or indirectly from the City (except those Customers who use treated wastewater effluent or raw water), for the uses described below:
 - (i) All outdoor irrigation by hose end sprinklers, soaker hoses, or drip irrigation may occur only on a designated outdoor water use day and only between the hours of 12:00 midnight to 10:00 a.m. and between the hours of 7:00 p.m. to 12:00 midnight. All outdoor irrigation of vegetation by permanently installed automatic irrigation systems may occur only between the hours of 12:00 midnight to 10:00 a.m. on designated outdoor water use days. Irrigation by hand-held hoses or hand-held buckets is permitted anytime. The public is encouraged to wait until Stage II is terminated to establish new landscaping. The time

restrictions do not apply to the irrigation of commercial plant nurseries; however, these establishments shall curtail all nonessential water use.

- (ii) The washing of automobiles, trucks, trailers, boats, airplanes, or other type of mobile equipment is prohibited except on designated outdoor water use days between the hours of 12:00 midnight to 10:00 a.m. and between the hours of 7:00 p.m. and 12:00 midnight. The washing, when allowed, must be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle must be removed when the hose is not in use. The washing of each individual automobile, truck, trailer, boat, airplane or any other type of mobile equipment in violation of the terms and conditions of this restriction constitutes a separate violation under this Section. However, this restriction does not apply to the washing of vehicles or mobile equipment when conducted on the immediate premises of a commercial carwash or a commercial service station. Furthermore, this restriction does not apply to the washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment (such as garbage trucks and vehicles used to transport food and perishables) when the washing is necessary on a more regular and frequent basis in order to protect the health, safety and welfare of the public. Charity carwashes are prohibited.
- (iii) The watering of the ground around foundations to prevent foundation cracking is prohibited except on designated outdoor water use days between the hours of 12:00 midnight to 10:00 a.m. and between the hours of 7:00 p.m. and 12:00 midnight.
- (iv) The refilling or adding of water to swimming or wading pools, or ponds, is prohibited. However, this restriction does not apply to public swimming pools and wading pools equipped with filtration and a recirculation system that includes the gutter drains or that are not using water from the City's water distribution system. However, public pools may not be filled if there are unrepaired leaks.
- (v) The operation of any ornamental fountain or other structure making similar use of water is prohibited except where necessary to support aquatic life.
- (vi) The use of water for irrigation of golf fairways is prohibited except on designated outdoor water use days between the hours of 12:00 midnight to 10:00 a.m. and between the hours of 7:00 p.m. and 12:00 midnight. The irrigation of golf course greens and tees is allowed on an every-other-day schedule if a plan is filed detailing such schedule. These restrictions do not apply to the irrigation of any golf course which utilizes wastewater effluent, ground water or raw water.
- (vii) The use of water from fire hydrants shall be limited to firefighting-related activities or other activities necessary to maintain the health, safety, and welfare of the citizens of Round

Rock; however, routine flushing of fire hydrants for other than health and safety reasons is prohibited. This restriction does not apply to businesses which require the use of water for land development and building construction processes. By written approval from the Director, the businesses may purchase and draw water from fire hydrants designated for that use by the Director.

- (viii) Street washing using potable water from hydrants is prohibited. Street washing may occur if reclaimed water is used.
 - (ix) During Stage II restrictions, the City shall visually inspect lines and repair leaks on a daily basis; reduce or discontinue the flushing of water mains; discontinue the routine street cleaning programs; and consider activating inter-connects with other utility providers.
 - (x) Potential alternate water sources for the City are identified as:
 - a. Wells 7 and 9; and
 - b. Inter-connection with the City of Austin or City of Georgetown.
 - (xi) The following uses of water are prohibited:
 - a. Failing to repair a controllable leak, such as broken sprinkler heads and leaking valves or faucets.
 - b. Washing sidewalks, driveways, parking areas, streets, tennis courts, patios, or other paved areas, except to alleviate immediate health or fire hazards.
 - c. Operating a permanently installed irrigation system with broken heads, with heads that are out of adjustment that spray more than ten percent (10%) of the spray on streets or parking lots, or that are misting.
 - d. Allowing water to run off a property during irrigation, in the street or parking lot to a depth greater than 1/4 of an inch.
- (b) The Stage II restrictions do not apply to the following uses of water:
- (i) The necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of its governmental functions for the benefit of the public, such as for capital improvement construction projects.
 - (ii) The necessary use of water, other than for landscape irrigation, for land development (such as roadway base preparation, flushing of utility lines, dust control, concrete and asphalt work) and for building construction processes.
 - (iii) The necessary use of water for repair of water distribution facilities, residential and commercial plumbing and permanently installed landscape irrigation systems.
 - (iv) The use of water necessary for the establishment of specially permitted landscaping in new, residential and commercial development should be postponed if at all possible. If the installation cannot be postponed, the irrigation schedule for the

first thirty (30) days after installation on notification to the Director may not exceed the following frequency of irrigation:

Days 1-10	Once per day
Days 11-20	Once every other day
Days 21 - 30	Once every third day
After 30 th day	Standard restrictions apply

Watering must take place during the permitted hours and, if the landscape cannot be sustained based on this schedule, installation should be postponed.

- (v) The necessary use of water for athletic fields for organized youth, amateur, or professional sports such as football, soccer or baseball where the field is in use or will be in use within sixty (60) days of the institution of Stage II restrictions.
- (c) Target: Achieve a five percent (5%) reduction in the daily water demand that would have occurred in the absence of any drought contingency or conservation measures.

(3) Stage III Emergency Water Use Management:

The City Manager, or his or her designee, may implement the following restrictions to apply to all Customers or the City's water utility or to any Persons who use water directly or indirectly from the City's water utility, and to apply in the areas designated by the City Manager or his or her designee. The restrictions do not apply to any Customer using treated wastewater effluent or raw water for the uses described below. All elements of Stage II remain in effect in Stage III except that:

- (a) All outdoor irrigation of vegetation by hand-held hoses or hand-held watering cans may occur only on designated outdoor water use days and between the hours of 6:00 a.m. to 10:00 a.m. and between 7:00 p.m. to 10:00 p.m. Irrigation is prohibited, including but not limited to foundation watering, using permanently installed irrigation systems, hose end irrigation, or drip irrigation. These restrictions are not applicable to the necessary use of water for irrigation of professional athletic fields.
- (b) The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment is prohibited, unless occurring on the immediate premises of a commercial carwash or a commercial service station and unless it is in the immediate interest of the public health, safety, and welfare. The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment may occur between 12:00 noon and 5:00 p.m. on the immediate premises of a commercial carwash or a commercial service station if it is in the immediate interest of the public health, safety and welfare.

- (c) Commercial plant nurseries may use only hand-held hoses, hand-held watering cans, or drip irrigation.
- (d) The filling, refilling, or adding of potable water to public swimming or wading pools is prohibited.
- (e) No new landscapes of any type may be established.
- (f) During Stage III restrictions the City shall visually inspect lines and repair leaks on a daily basis and discontinue the flushing of water mains except as needed for health and safety reasons.
- (g) Target: Achieve a seven percent (7%) reduction in the daily water demand that would have occurred in the absence of any drought contingency or conservation measures.

10.814 POWERS OF THE DIRECTOR

The Director may, at any time, implement mandatory water restrictions in addition to those restrictions named in the Plan to protect the public health and safety in the event of unusual operational events, catastrophic occurrences, or severe weather events. The Director may implement mandatory restrictions by public announcement and the restrictions are effective immediately upon the making of such public announcement. In the event the Director implements restrictions pursuant to this Subsection to protect the public health and safety of the public, the notice provisions contained in Section 10.815 do not apply.

10.815 NOTICE REQUIREMENTS

- (1) Written notice will be provided to each wholesale Customer prior to implementation or termination of each Stage of the Plan. Mailed notice must be given to each wholesale Customer seventy-two (72) hours prior to the start of water restriction. If notice is hand-delivered, the City cannot enforce the provisions of the plan for twenty-four (24) hours after notice is provided.
- (2) Notice to all other Customers will be given through press releases, cable television announcements, postings in public areas and on the web. These notices will be made prior to implementation or termination of each Stage of the Plan.
- (3) All notifications will contain, at a minimum, the following information:
 - (a) the date restrictions will begin,
 - (b) the circumstances that triggered the restrictions,
 - (c) the Stages of response and explanation of the restrictions to be implemented,
 - (d) an explanation of the consequences for violations.

- (4) The City will notify the Commission by telephone, or electronic mail prior to initiating Conservation Stages. Written notification will be delivered to the Commission Public Drinking Water Section at MC - 155, P.O. Box 13087, Austin, Texas 78711-3087, within five (5) working days of implementation. Copies of all public notices will be included.
- (5) The City will notify directly, or cause to be notified directly, the following individuals and entities when Stage III is required to be implemented:
 - (a) County Emergency Management Coordinator;
 - (b) County Judge and Commissioners;
 - (c) Round Rock ISD; and
 - (d) Critical and large water users, i.e. hospitals, care centers.
- (6) The City will file a status report of its restriction program with the Commission every thirty (30) days that restriction continues.

10.816 NOTICE OF VIOLATIONS

- (1) The Customer will be given a written notice describing specific violations at least twenty-four (24) hours prior to enforcement by measures authorized in Subsections 10.816(2) and (3).
- (2) After written notice, the City may install a flow restricting device in the line to limit the amount of water which will pass through the meter in a 24 hour period. The City may charge the Customer for the actual cost of installing and removing the flow restricting device, not to exceed Fifty Dollars (\$50.00).
- (3) If a Customer has been convicted of three (3) or more distinct violations of this Plan, the City may, upon due notice to the Customer, discontinue service at the meter for a period of seven (7) days, or until the end of the calendar month, whichever is less. The normal reconnect fee of the City will apply for restoration of service. In addition, suitable assurance must be given to the City that the same action will not be repeated while the Plan is in effect.

10.817 VARIANCE; ALTERNATIVE COMPLIANCE

- (1) The Director may grant any Customer a temporary variance from the Plan when failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare or safety, and if one of the following conditions are met:
 - (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect; or

- (b) Alternative methods can be implemented which will achieve the same or better level of reduction in water use.
- (2) The Director shall inform the Customer in writing concerning the granting or denial of such variance and any conditions that may accompany such variance, including any timetables for compliance with the Plan. The City will treat all Customers equally concerning variances, and shall not discriminate in granting variances. No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance. Variances granted shall expire when the particular Stage of the Plan has been terminated.
- (3) Customers requesting a variance shall file a petition for variance with the Director within five (5) days after the Plan or a particular Stage has been invoked. All petitions shall be reviewed by the Director and shall include the following information:
 - (a) Name and address of the petitioner(s);
 - (b) Purpose of water use;
 - (c) Specific provisions of the Plan from which the petition is requesting relief;
 - (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan;
 - (e) Description of the relief requested;
 - (f) Period of time for which the variance is sought;
 - (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date;
 - (h) Other pertinent information.
- (4) If approved, the Customer shall keep a copy of the alternative water use requirements in the location accessible and visible to the public.

10.818 ENFORCEMENT AND PENALTY

- (1) For purposes of this Section, the Person or Customer in whose name the water utility of the City last billed or who is receiving the economic benefit of the water supply is presumed to have knowingly made, caused, used or permitted the use of water received from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Section, or in an amount more than the use permitted by the conservation Stage in effect and proof that the violation occurred on the Person's

or Customer's property shall constitute a rebuttal presumption that the Person or Customer committed the violation.

- (2) A Person commits an offense if the Person performs an act prohibited by this Section or fails to perform an act required by this Section. Each instance of a violation of this Section is a separate offense. A warning may be issued for the first violation.
- (3) Proof of a culpable mental state is not required for a conviction of an offense under this Section.
- (4) Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parent's control shall constitute a rebuttal presumption that the parent committed the violation.
- (5) An offense under this Section is a Class C misdemeanor, punishable by a fine not to exceed Two Thousand Dollars (\$2,000.00). Prosecution of an offense under any subsection does not preclude other enforcement remedies under this Section. The enforcement of other remedies under this Section does not prevent prosecution for a violation of this Section under any subsection of any Section.
- (6) For repeat violations of this Section, water service may be disconnected or restricted.
- (7) If a Customer is irrigating during a time period or on a day when irrigation is not permitted for the street address of that Customer and a City worker cannot find any Person at that street address to turn off the irrigation system, the City worker may enter the property and turn off the irrigation system.
- (8) The City's authority to seek injunctive or other civil relief available under the law is not limited by this Section.

(Ordinance No. G-02-04-11-15A1 of April 11, 2002 as amended by Ordinance No. G-06-06-08-9C1 of June 8, 2006)

SECTION 10.900 RIGHT-OF-WAY CONSTRUCTION**10.901 RIGHT-OF WAY CONSTRUCTION**

No one shall commence or continue with the construction, installation or operation of facilities within any right-of-way in the city except as provided by agreement, ordinances, and directives of the Public Works Department. All construction activity in city rights-of-way shall be in accordance with this ordinance.

10.902 REGISTRATION AND CONSTRUCTION PERMITS**(1) Registration**

In order to protect the public health, safety and welfare, all users of any rights-of-way will register with the City of Round Rock. Registration and permits will be issued in the name of the person who will own the facilities. Registration must be renewed every five (5) years. For utilities with a current franchise or license, the franchise or license will be evidence of renewal. If a registration is not renewed, subject to sixty (60) day notification to the owner, the facilities of the user will be deemed to have been abandoned. When any information provided for the registration changes, the user will inform the City of Round Rock of the change no more than thirty (30) days after the date the change is made. Registration information shall include:

- (a) Name of the user of the right-of-way;
- (b) Name, address and telephone number of contact person(s) for the user;
- (c) Name, address and telephone number of any contractor or subcontractor, if known, who will be working in the right-of-way on behalf of the user;
- (d) Name(s) and telephone number(s) of emergency contact(s) who shall be available twenty-four (24) hours a day; and
- (e) Proof of insurance and bonds as follows:
 - (i) An applicant must provide a certificate of insurance on forms provided by the City showing proof of liability insurance in the total amount of one million dollars (\$1,000,000) primary, if requested by the owner of the facilities, or other provisions as acceptable to the City Attorney or designee.
 - (ii) The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards.
 - (iii) Each policy must be with a company licensed to do business in the state of Texas, acceptable to City, and must be on forms provided by City.

- (iv) The certificate of insurance must include a cancellation provision in which the insurance company is required to notify City in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits.
- (v) The certificate of insurance must include an endorsement naming the City as an additional insured.
- (vi) The applicant shall file the required original certificate of insurance prior to any commencement of work. The certificate shall state the policy number, name of the insurance company, name and address of the agent or authorized representative of the insurance company, name and address and telephone number of insured, policy expiration date, and specific coverage amounts.
- (vii) The applicant shall file an annual surety bond which will be valid each year construction will occur through one (1) full year after the completion of the construction from a surety company authorized to do business in the state of Texas, acceptable to City, and must be on forms provided by City. Such surety bond will be in the amount of the estimated cost to restore the right-of-way for the work anticipated to be done in that year, in the event the applicant leaves a jobsite in the right-of-way unfinished, incomplete or unsafe.
- (viii) The above requirements may be met by utilities with a current franchise or license if their current franchise or license adequately provides for insurance or bonds or provides an indemnity in favor of City.

(2) Construction permits

- (a) No person shall perform any construction or installation of facilities in the rights-of-way without first obtaining a construction permit, except as provided herein. The permit will be in the name of the person who will own the facilities to be constructed. The permit must be completed and signed by a lawful representative of the owner of the facilities to be constructed.
- (b) Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however, the Public Works Department shall be notified in writing within two (2) business days of any construction related to an emergency response, including a reasonably detailed description of the work performed in the right-of-way and an updated map of any facilities that were relocated, if applicable.

- (c) The phrase “construction or installation of facilities” does not include the installation of facilities necessary to initiate service to a customer’s property, or repair or maintenance of existing facilities unless such repair or maintenance requires the breaking of pavement, the closure of a nonresidential traffic lane, excavation, or boring.
- (d) The permit shall state to whom it is issued, location of work, location of facilities, dates and times work is to take place, and any other conditions set out by the Director of Public Works or designee.
- (e) Requestor of a permit will provide the Director of Public Works or designee with documentation in the format specified by the Public Works Department describing:
 - (i) The proposed, approximate location and route of all facilities to be constructed or installed and the applicant’s plan for right-of-way construction.
 - (ii) Engineering plans which will be on a scale of one inch (1") equals fifty feet (50') unless otherwise approved by the Public Works Department.
 - (iii) Detail of the location of all right-of-way and utility easements which applicant plans to use.
 - (iv) Detail of all existing city utilities in relation to applicant’s proposed route.
 - (v) Detail of what applicant proposes to install, such as pipe size, number of interducts, valves, etc.
 - (vi) Detail of plans to remove and replace asphalt or concrete in streets (include City of Round Rock standard construction details).
 - (vii) Drawings of any boxes, trenches, handholes, manholes, switch gears, transformers, pedestals, etc. including depth located in public right-of-way.
 - (viii) Handhole and/or manhole typicals of type of manholes and/or handholes applicant plans to use or access.
 - (ix) Complete legend of drawings submitted by applicant.
 - (x) Five (5) sets of engineering plans must be submitted with permit application.

- (xi) Name, address and telephone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction. Such information shall be required prior to the commencement of any work.
 - (xii) The construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way and the dates and times work will occur, all of which shall be subject to approval of the Director of Public Works or designee.
 - (xiii) A statement that the requirements of Section 2(A)(5) “Proof of insurance and bonds” have been met.
- (f) All construction and installation in the right-of-way shall be in accordance with the permit for the facilities. The Director of Public Works or designee shall be provided access to the work and to such further information as may reasonably be required to ensure compliance with the permit.
 - (g) A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the Director of Public Works or designee at all times when construction or installation work is occurring.
 - (h) All construction or installation work authorized by permit must be completed in the time specified in the construction permit. If the work cannot be completed in the specified time periods, the permittee may request an extension from the Director of Public Works. The Director of Public Works or designee will use best efforts to approve or disapprove a request for extension as soon as practicable.
 - (i) A copy of any permit or approval issued by federal or state authorities for work in federal or state right-of-way located within the City of Round Rock, if requested by the Public Works Department.
 - (j) A request for a permit must be submitted at least ten (10) working days before the proposed commencement of work in the request, unless waived by the Director of Public Works or designee.
 - (k) Requests for permits will be approved or disapproved by the Director of Public Works or designee within a reasonable time of receiving all the necessary information. The Director of Public Works or designee will use best efforts to approve or disapprove a request for permit as soon as practicable.

- (l) The Public Works Department or the applicant can request a pre-construction meeting with the permittee and construction contractor.
- (m) Permit applications are required for construction on new, replacement or upgrading of the company's facilities in the right-of-way, either aerial or underground.

10.903 CONSTRUCTION STANDARDS

- (1) The Department of Public Works must be notified at least twenty-four (24) hours in advance that construction is ready to proceed by either the right-of-way user, its contractor, or authorized representative.
- (2) All construction shall be in conformity with all city codes and applicable local, state, and federal laws.
- (3) Three foot by three foot (3' x 3') information signs stating the identity of the entity doing the work, its telephone number, and permittee's identity and telephone number shall be placed at the location where construction is to occur at least forty-eight (48) hours prior to the beginning of work in the right-of-way and shall continue to be posted at the location during the entire time the work is occurring. An informational sign will be posted on public right-of-way one hundred feet (100') before the construction location commences and each one hundred feet (100') thereafter, unless other posting arrangements are approved or required by the Public Works Director.
- (4) Erosion control measures (e.g. silt fence) and advance warning signs, markers, cones, and barricades must be properly in place before work begins.
- (5) Lane closures on major thoroughfares will be limited after 8:30 a.m. and before 4:00 p.m. unless the Public Works Department grants prior approval. Arrow boards will be required on lane closures, with all barricades, advance warning signs and thirty-six inch (36") reflector cones placed according to the specifications of the Public Works Department.
- (6) Permittees are responsible for the workmanship and any damages by a contractor or subcontractor. A responsible representative of the permittee will be available to the Public Works Department at all times during construction.
- (7) Permittee shall be responsible for storm water management erosion control that complies with city, state, and federal guidelines. Requirements shall include, but shall not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and high erosion areas will require wire backed silt fencing. Upon request, permittee may be required to furnish documentation submitted or received from the federal or state governments.

- (8) Permittee or contractor or subcontractor shall notify the Public Works Department *immediately* of any damage to other utilities, either city owned or privately owned.
- (9) It is City's policy not to cut streets or sidewalks; however, when a street or sidewalk cut is required, prior approval must be obtained from the Public Works Department and all requirements of the Public Works Department shall be followed. Repair of all street and sidewalk removals must be made promptly to avoid safety hazards to vehicle and/or pedestrian traffic.
- (10) Installation of facilities must not interfere with city utilities, in particular gravity dependent facilities.
- (11) New facilities must be installed to a depth approved by the Public Works Department.
- (12) All directional boring shall have locator place bore marks and depths while bore is in progress. Locator shall place mark at each stem with paint dot and depth at least every other stem.
- (13) Working hours in the rights-of-way are 7:00 a.m. to 6:00 p.m. Monday through Friday. Work that needs to be performed after 6:00 p.m. Monday through Friday must be approved in advance. Any work performed on Saturday must be approved twenty-four (24) hours in advance by the Public Works Department. Directional boring is permitted only Monday through Friday from 7:00 a.m. to 6:00 p.m. unless approved in advance. No work will be done, except for emergencies, on city holidays.
- (14) Entities working in the right-of-way are responsible for obtaining line locates from all affected utilities or others with facilities in the right-of-way prior to any excavation. Use of the Geographic Information System or the plans of record does not satisfy this requirement.
- (15) Permittee will be responsible for verifying the location, both horizontal and vertical, of all facilities. When required by the Public Works Department, the permittee shall verify locations by potholing, hand digging, or other method approved by the Public Works Department prior to any excavation or boring, with the exception of work involving lane closures as detailed above.
- (16) Placement of all manholes and/or handholes must be approved in advance by the Public Works Department. Handholes or manholes will not be located in sidewalks unless approved by the Public Works Director.
- (17) Locate flags shall not be removed from a location while facilities are being constructed.
- (18) Construction which requires pumping of water or mud shall be contained in accordance with City of Round Rock ordinances and federal and state law and the directives of the Public Works Department.

10.904 “PLANS OF RECORD” PLANS

- (1) Right-of-way users will provide the Public Works Director or designee with “plans of record” within ninety (90) days of completion of facilities in the right-of-way. Users which have existing facilities in the right-of-way (as of the date of passage of an ordinance reflecting the contents of this Agreement) who have not provided “plans of record” plans shall provide one-quarter (1/4) of the information concerning facilities in city rights-of-way within one (1) year after passage of such ordinance, and one-quarter (1/4) each six (6) months thereafter. The plans shall be provided to City with as much detail and accuracy as required by the Public Works Director. All of the requirements specified for the plans submitted for the initial permit, as set forth herein in Section 2, shall be submitted and updated in the “plans of record.” The detail and accuracy will concern issues such as location, size of facilities, materials used, and any other health, safety and welfare concerns. The detail will not include matters such as capacity of lines, customers, or competitively sensitive details. Submittal of “plans of record” shall be in digital format.
- (2) This requirement, or portions of this requirement, may be waived by the Director of Public Works for good cause.

10.905 CONFORMANCE WITH PUBLIC IMPROVEMENTS

Whenever by reason of widening or straightening of streets, water, or sewer line projects or any other public works projects (e.g. installation or improvement of storm drains, water lines, sewer lines, etc.) it shall be deemed necessary by the governing body of City to remove, alter, change, adapt, or conform the underground or overhead facilities of a right-of-way user to another part of the right-of-way, such alterations shall be made by the owner of the facilities at its expense (unless provided otherwise by state law or a franchise in effect on the date of passage of an ordinance reflecting the contents of this Agreement until that franchise expires or is otherwise terminated) within the time limits set by the Public Works Director or designee working in conjunction with the owner of the facilities; or if no time frame can be agreed upon, within ninety (90) days from the day the notice was sent to make the alterations, unless a different schedule has been approved by the Public Works Director or designee. Facilities not moved after ninety (90) days or within the approved schedule, as same may be extended from time to time, shall be deemed abandoned after thirty (30) days notice.

10.906 IMPROPERLY INSTALLED FACILITIES

- (1) Any entity doing work in the city right-of-way shall properly install, repair, upgrade and maintain facilities.
- (2) Facilities will be considered to be improperly installed, repaired, upgraded or maintained if:
 - (a) the installation, repair, upgrade or maintenance endangers people;

- (b) the facilities do not meet applicable city codes;
- (c) the facilities are not capable of being located using standard practices;
- (d) the facilities are not located in the proper place at the time of construction in accordance with the directions provided by the Public Works Department.

10.907 RESTORATION OF PROPERTY

- (1) Users of the rights-of-way shall restore property affected by construction of facilities to a condition that is equal to or better than the condition of the property prior to performance of the work. After completion, restoration must receive final approved by the Public Works Department.
- (2) Restoration must be to the reasonable satisfaction of the Public Works Department and the property owner. The restoration shall include, but shall not be limited to:
 - (a) Replacing all ground cover with the type of ground cover damaged during work or better either by sodding or seeding, as directed by the Public Works Department;
 - (b) Installation of all manholes and handholes, as required;
 - (c) Backfilling all bore pits, potholes, trenches or any other holes shall be filled in daily, unless other safety requirements are approved by the Public Works Department;
 - (d) Leveling of all trenches and backhoe lines;
 - (e) Restoration of excavation site to city specifications;
 - (f) Restoration of all landscaping, ground cover, and sprinkler systems;
- (3) All locate flags shall be removed during the clean-up process by the permittee or its contractor at the completion of the work.
- (4) Restoration must be made in a timely manner as specified by approved Public Works Department schedules and to the satisfaction of the Public Works Director or designee. If restoration is not satisfactory and performed in a timely manner, all work in progress (except that related to the problem), including all work previously permitted but not complete, may be halted and a hold may be placed on any permits not approved until all restoration is complete.

10.908 REVOCATION OR DENIAL OF PERMIT

If any of the provisions herein are not followed, a permit may be revoked by the Public Works Director or designee. If an entity has not followed the terms and conditions contained herein in work done pursuant to a prior permit, new permits may be denied and/or additional terms and conditions may be required.

10.909 APPEAL FROM REVOCATION OR DENIAL OF PERMIT

Appeal from revocation or denial of a permit or from the decision of the Public Works Director shall be to the City Council. Appeal shall be filed with the City Secretary within fifteen (15) days from the date of the decision being appealed.

(Ordinance No. G-00-08-10-9B2 of August 10, 2000)

**SECTION 10.1000 USE BY THIRD PARTIES OF CITY OWNED
UTILITY INFRASTRUCTURE**

10.1001 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) Applicant. Any person or entity which applies to use Utility Infrastructure owned by the City of Round Rock.
- (2) Attachments. An Attachment includes the following:
 - (a) On a pole, each aerial cable, together with its associated messenger cable, guy wire, anchors and other appurtenant and incidental facilities;
 - (b) In conduit, each linear foot of occupancy of a City-owned conduit or duct by each cable or other Attachment;
 - (c) Each antenna, transceiver, amplifier, repeater or other device or equipment of a User that is supported by, affixed to, contained in, or placed on or in a unit of Utility Infrastructure.

If a federal or state law or regulation which governs Attachments to City owned Utility Infrastructure provides for a definition of Attachment which conflicts with and preempts the definition set forth in this section, then the definition of Attachment in such law or regulation shall control.

- (3) Attachment Rights. All rights of a User to place, install, construct, replace, move, remove, keep, maintain, operate or use Attachments on or in City-owned Utility Infrastructure under this chapter or any permit or contract granted pursuant to this chapter.

- (4) Cable. A wire rope or a bound or sheathed assembly of conductors, wires or fibers, including, without limitation, fiber optic cable, coaxial cable, and twisted pair copper cable. Each cable that is lashed to another cable or to a common messenger cable shall be considered a separate Attachment.
- (5) City. The City of Round Rock, Texas, a home-rule municipal corporation.
- (6) Filing Fees. Non-refundable fees charged by the City to review and process an application to use Utility Infrastructure.
- (7) Infrastructure Usage License Agreement. The contract between the User and the City for use of Utility Infrastructure under this chapter that sets forth the terms and conditions to which the User's use of Utility Infrastructure is subject.
- (8) Person. An individual, corporation, or association.
- (9) PWD. The Public Works Department of the City of Round Rock.
- (10) Schedule of Charges. The schedule of charges payable under this chapter or under a contract entered into hereunder. The schedule shall include: filing fees; usage charges; and such charges and costs as the City may establish by ordinance or are agreed to by the parties in an Infrastructure Usage Agreement.
- (11) Usage Charges. Annual use and occupancy charges payable to the City for the Attachment rights granted to a User.
- (12) User. An applicant who has been granted the right to install an Attachment or Attachment in accordance with this chapter.
- (13) Utility Infrastructure. Water storage structures and transmission structures, ducts, electrical transmission and distribution poles and conduit, building entry conduit, utility tunnels, manholes, vaults, radio towers, other radio equipment, fiber optic cable capacity and active communications capacity, together with all appurtenant facilities owned by the City of Round Rock.

SECTION 10.1002 PURPOSE

The purpose of this chapter is to establish a uniform policy for usage of Utility Infrastructure to enable the City to:

- (1) Permit fair, reasonable and non-discriminatory access to the available capacity on City owned Utility Infrastructure;
- (2) Safeguard the reliability and integrity of the City of Round Rock's Utility Infrastructure;
- (3) Obtain fair compensation for the use of Utility Infrastructure through collection of usage and other charges;

- (4) Comply with all applicable federal, state and local laws, rules, regulations, ordinances, standards and policies;
- (5) Support cost-effective, optimal use of public resources and economic development through increased competition in the delivery of wireless telecommunications services; and
- (6) Avoid the congestion, inconvenience, cost, visual impacts, and other adverse effects on the City's street, highways and rights of ways which could result from the construction, operation and maintenance of redundant infrastructure.

SECTION 10.1003 UTILITY INFRASTRUCTURE

(1) Right to Use of Utility Infrastructure Not Granted by Franchise

The rights of persons to apply for or use Utility Infrastructure shall be governed by this chapter. The grant of a franchise under Article XI of the City Charter shall not be construed to grant Attachment rights or authorize the use of Utility Infrastructure without additional compliance by the franchisee with the provisions of this chapter.

(2) Authority of Public Works Department

The PWD shall operate, maintain and control the Utility Infrastructure, and is charged with the administration of this chapter. The PWD shall develop non-discriminatory policies and regulations to implement, administer and enforce this chapter. The PWD may delegate the operation, maintenance or control of specific types or units of Utility Infrastructure to another City department if it is in the best interests of the City to do so.

(3) Priority of Usage

The safe and reliable transmission and distribution of utility services to the citizens of the City of Round Rock have first priority over all other competing uses of Utility Infrastructure.

(D) Reservation and Restrictions

- (a) Certain classes of Utility Infrastructure or specific units of Utility Infrastructure may be determined by the PWD, to be necessary for PWD's exclusive use due to legal, mechanical, structural, safety, environmental, service or other requirements, and therefore will be unavailable for use by others.
- (b) Some Utility Infrastructure is located on dedicated utility easements, which by their terms, limit the use of the easement by the PWD to the transmission and distribution of water and do not authorize other uses such as telecommunications. Nothing in this chapter shall be deemed to grant any third party rights in such easements without the prior consent of the grantor of the easement or its successor. All additional costs or expense to

obtain the use by the User or applicant of such dedicated easements shall be borne solely by the User or applicant.

- (c) Utility Infrastructure shall remain the property of the City and no payment made by User shall create in User any right, title, or interest in any Utility Infrastructure.
- (d) Nothing in this chapter shall be deemed to require the PWD to replace, upgrade or alter existing Utility Infrastructure to create additional capacity for Attachment.

(5) Unauthorized Use Prohibited

No applicant, User or other party shall have the right to place any Attachment on Utility Infrastructure except as authorized by the City hereunder. If one or more unauthorized Attachment are discovered, and the owner of the unauthorized Attachment(s) does not either undertake to remove the unauthorized Attachment(s), or make application for such Attachment(s) together with any applicable charges or penalties, the City may, but shall not be required to, remove the unauthorized Attachment(s) from Utility Infrastructure without incurring any liability to the owner and at the owner's sole expense.

SECTION 10.1004 FEES AND CHARGES

(1) Filing Fees

The filing fee for the review and processing of an application to use city owned utility infrastructure is \$500.00 per communications site per application.

(Ordinance No. G-01-01-11-12A1 of January 11, 2001)

(2) Usage Charges

Usage charges may be established by separate ordinance or by agreement of the City and the User under an Infrastructure Usage Agreement; provided, however, that usage charges may not exceed the maximum amount permitted by applicable law.

(3) Non-discrimination

Filing fees and usage charges shall be calculated and applied in a consistent manner for all similarly situated Users. If filing fees or usage charges shall become subject to preemptive legislation or regulation by the State of Texas or the United States, then the filing fees and usage charges payable to the City shall be the maximum lawful amount permitted under such federal or state law or regulation.

SECTION 10.1005 APPLICATION FOR USE OF UTILITY INFRASTRUCTURE**(1) Authorized Users**

Unless otherwise required by law, only applicants who hold a valid franchise or license to use or Utility Infrastructure, granted by the City, will be granted Attachment rights on Utility Infrastructure. The applicant shall be authorized to use Utility Infrastructure only for the purposes specified in its franchise or license. Attachments that are used for a purpose other than that authorized in the applicant's franchise or license shall be deemed to be unauthorized Attachments. Persons who seek to use Utility Infrastructure for private purposes may not be granted Attachment rights hereunder.

(2) Application Process

To obtain the right to use Utility Infrastructure, an applicant must file an application with the PWD in accordance with procedures developed by the PWD. Subject to availability of Utility Infrastructure capacity, all applications shall be considered on a first come, first serve basis. If an application cannot be approved as presented, PWD may approve an application subject to conditions. All conditions of approval shall be incorporated into the Infrastructure Usage License Agreement.

(3) Denial of an Application

(a) An application may be denied if:

- (i) The applicant fails to submit a complete application;
- (ii) The applicant fails to supplement its application with additional information or otherwise cooperate with the City as requested in the evaluation of the application;
- (iii) The applicant fails to timely pay the required filing fees;
- (iv) The proposed Attachments are of excessive size or weight or would otherwise subject Utility Infrastructure to unacceptable levels of additional stress;
- (v) Approval would jeopardize the reliability or integrity of the public utility systems or of individual units of Utility Infrastructure;
- (vi) Approval would present a safety hazard to City employees or the public;
- (vii) Approval would impair the City's ability to operate or maintain Utility Infrastructure;
- (viii) Approval would require an unacceptable change, upgrade or addition to Utility Infrastructure; or,

- (ix) Approval would expose the City, the PWD, the public, or other Users to increased liability or financial risk.
- (b) If an application is denied, applicant shall be given written notice of the basis for denial. The denial of an application shall be without prejudice to the right of applicant to file a new application correcting any deficiencies that led to denial. If an application is denied, applicant shall have the right to appeal the denial of its application to the Director of the PWD or designee no later than 30 days after the date of the action being appealed, in accordance with procedures to be developed by the PWD. If, on appeal, the Director of the PWD or designee upholds the original PWD decision, such that the applicant has been denied all, or substantially, all Attachment rights, the applicant may appeal to the City Council in accordance with §10.908.
- (c) Additional Costs

All costs to replace, enlarge or upgrade Utility Infrastructure to accommodate the proposed Attachments of an applicant or User, as determined by the PWD, shall be borne by the applicant or User.
- (d) Infrastructure Usage Agreement
 - (i) The City Attorney, in conjunction with the PWD, shall develop an Infrastructure Usage License Agreement consistent with this chapter.
 - (ii) The Infrastructure Usage License Agreement must be fully executed and approved before the applicant may undertake any work or make any Attachments on any Utility Infrastructure.
 - (iii) The applicant must pay all usage charges for the initial contract year in advance at the time of execution of the contract.
 - (iv) If the annual usage charges to be paid to the City under an Infrastructure Usage License Agreement are less than the amount specified in the Round Rock City Charter as requiring approval of contracts by the City Council, the Director of the PWD, or designee, is hereby authorized to enter into and execute such infrastructure usage contract on behalf of the City without further action by the City Council. Infrastructure Usage License Agreements which will generate annual usage charges greater than said amount specified in the Round Rock City Charter or in the Round Rock City Code of Ordinances shall be subject to approval by the City Council.
 - (v) The license agreement shall identify and establish procedures to limit the number, kind and location of Attachments that the User may place on any Utility Infrastructure, the method of construction or installation of User's Attachments, and the authorized use of the

Attachments by User. User may not change the number, kind, location of Attachments, the method of construction or installation, or the use of the Attachments authorized under such contract without the prior written consent of the PWD, which shall not be unreasonably withheld. The denial or approval of an individual permit or Attachment shall be governed exclusively by the terms of the infrastructure usage contract, and shall not be subject to the provisions of §10.908.

SECTION 10.1006 OBLIGATIONS OF A USER

(1) Compliance with Law

The use of Utility Infrastructure shall at all times comply with all applicable federal, state, and local laws, rules and regulations, City ordinances, regulations and policies and all applicable industry standards.

(2) Operational and Maintenance Requirements

- (a) User shall in all cases and at all times install, operate and maintain its approved Attachments so as not to interfere with PWD facilities, the City use of Utility Infrastructure, or the facilities, attachments or operations of other Users.
- (b) User will not construe any contract, permit, correspondence or any other communication as affecting the rights, privileges or duties previously conferred or imposed by the City, by contract or otherwise, to or upon others. The City reserves the right to continue and extend such rights, privileges or duties and to admit other and different Users irrespective of the character or degree of economic competition that results.
- (c) User shall be responsible to perform all tree trimming necessary for the safe and reliable operation, use and maintenance of its Attachments. All tree trimming shall be performed in accordance with standards promulgated by the City.
- (d) Co-lashing or co-location of Attachments is prohibited without the prior written consent of the PWD, which consent may be subject to such conditions as the PWD may reasonably require.
- (e) Installation, operation and maintenance of User's Attachments shall be at the sole risk and expense of User. Neither the PWD nor the City warrants or represents that the Utility Infrastructure is suitable for placement of User's Attachments. User is expected to inspect the Utility Infrastructure on which its Attachments will be placed and shall rely solely on such inspection to determine the suitability of the Utility Infrastructure for User's purposes. User accepts the City's Utility Infrastructure AS IS and WHERE IS, and assumes all risks attendant to its usage.

- (f) If the PWD determines that a User's Attachments impair the safety or structural integrity of Utility Infrastructure, the PWD may require the User, at User's sole expense and risk, to change, alter, improve, move, remove or rearrange any of its Attachments. The PWD may also require a User to move or rearrange its Attachments of a new or other User, provided that such movement or rearrangement of Attachments will not materially impair the use or function of the existing User's system, and is subject to the agreement by the new or other User to compensate the existing User for its actual costs to move or rearrange Attachments. If a User fails or refuses to comply with the directions of the PWD to change, alter, improve, move, remove or rearrange any of its Attachments, such Attachments shall thereafter be deemed to be unauthorized. The PWD may (but shall not be required to) change, alter, improve, move, remove or rearrange such Attachments without incurring any liability to User, and at User's sole cost.
- (g) The PWD may inspect, at any time, the construction or installation of User's Attachments on Utility Infrastructure. If, in the course of any such inspection, the PWD finds that User's installation or construction violates any ordinance, code or statute the conditions of User's application, permit or Infrastructure Usage License Agreement, or this chapter, the PWD may immediately suspend User's construction or installation activities. The PWD shall send written notice to User within three business days after such suspension identifying the alleged violation. Such suspension shall be in effect until such time as the User cures, at User's sole expense, the alleged violation. User may appeal a suspension under this subsection to the Director of the PWD or designee.
- (h) User shall not transfer, assign, convey or sublet any Attachment rights without PWD's prior written consent. Any purported transfer, assignment or subletting of any right granted hereunder without obtaining PWD's prior written consent, shall not be binding upon the City, but shall be a material default of User's infrastructure Usage License Agreement.

(3) Termination

- (a) The City shall have the right to immediately suspend the rights of a User to make new or additional Attachments if the User materially fails to comply with the terms of its franchise, license or the Infrastructure Usage License Agreement upon written notice to User. If the User fails to cure the default within 60 days after receipt of such notice, the City may terminate User's Attachment rights.
- (b) Immediately upon termination of a User's Attachment rights, whether in accordance with franchise, permit or contract terms, a voluntary termination by User, or a termination by the City for cause, the User shall commence removal of its Attachments. Unless an extension of time is granted by the PWD, all Attachments must be removed within 60 days after the effective date of termination.

- (c) User shall continue to comply with the applicable terms of this chapter, User's franchise, license and Infrastructure Usage License Agreement after termination of its Attachment rights until such time as all Attachments are removed.
- (d) User may appeal the termination of its Attachment rights in accordance with the provisions of §10.905 and §10.908. During the pendency of an appeal, User may continue to use its existing Attachments, but may not make, change, alter, move, rearrange, construct or install any other or additional Attachments.

SECTION 10.1007 OTHER AGREEMENTS

(1) Prior Agreements

Any prior written agreement or any Infrastructure Usage License Agreement between a User and the City that has been executed and is in force prior to the effective date of this chapter ("Prior Agreement") will continue in force and effect until the prior agreement terminates in accordance with its terms. Until termination, the use of Utility Infrastructure under a prior agreement shall be subject to the terms of this chapter to the greatest extent possible, consistent with the terms of the prior agreement. Upon termination of a prior agreement, the continued use of Utility Infrastructure by such party shall be subject to the terms of this chapter.

(2) Existing Users

Any party using Utility Infrastructure at the effective date of this chapter without a prior agreement ("Existing User") shall comply with the provisions of this chapter and shall be subject to all duties and obligations of a User under this chapter. An existing User shall make application for use of Utility Infrastructure in accordance with the terms hereof within (60 days after the effective date of this chapter. Between the effective date of this chapter and such time as the existing User's application is approved, the existing User may not place any new or additional Attachments on or in City-owned Utility Infrastructure. If an existing User falls to make application to use Utility Infrastructure hereunder within 60 days after the effective date of this chapter, or if such application is finally denied, the existing User shall promptly commence removal of its Attachments. If all Attachments are not removed within an additional 60 days (or other period agreed to by the PWD) the existing User shall be deemed to be a trespasser on City-owned Utility Infrastructure and its Attachments shall be deemed to be unauthorized Attachments.

(3) Joint Use Contracts

In the event that a party (a "Joint User") who owns or controls a minimum of 1,000 utility poles, or owns or controls other Utility Infrastructure, and offers the joint use of its utility structures to the PWD in consideration for use of City Utility Infrastructure, and the PWD desires to use the joint User's utility structures, the following shall apply:

- (a) The Joint User shall pay the City usage charges in accordance with §10.904(B).
- (b) Each party occupying jointly-used utility structures shall be responsible to perform its own work, including, but not limited to construction of jointly-used utility structures and the installation, operation, maintenance (including tree trimming), replacement, removal, rearrangement or relocation of its Attachments. If for any reason, the Joint User fails to perform work which it is obligated to perform on or concerning jointly-used utility structures owned by the City, the PWD may, but shall not be obligated to, perform such work on behalf of the Joint User. In such event, the Joint User shall pay the PWD its full cost of labor, material, equipment, plus overhead, general and administrative expense, general fund transfer and other charges and costs incurred by the PWD to perform such work, or the PWD may elect to own any Utility Infrastructure Improvements installed or constructed by the PWD.
- (c) Before a Joint User may occupy City-owned Utility Infrastructure, the Joint User must execute an Infrastructure Usage License Agreement consistent with the provisions of this chapter.
- (d) As a condition to being granted the use of City-owned Utility Infrastructure, the Joint User must agree not to unreasonably deny other Users the right to place Attachments on the Utility Infrastructure of the Joint User, to the extent that capacity or space is available, and subject to agreement upon terms and conditions (including the payment of reasonable and non-discriminatory fees) of usage between the Joint User and the other User.

SECTION 10.1008 APPEALS TO CITY COUNCIL

- (1) If an applicant has been denied Attachment rights substantially in their entirety under §10.905(C), or if a User's Attachment rights have been terminated substantially in their entirety under §10.906(C), the applicant or User may appeal the denial of its initial appeal by the Director of the PWD to the City Council. An appeal to the City Council shall be initiated by filing a written notice of appeal with the Director of the PWD no later than 14 days after the date of the denial of applicant or User's appeal by the Director of the PWD or designee. The notice of appeal shall contain, at a minimum, the following information:
 - (a) The name, address and telephone number of the appellant;
 - (b) The name, address and telephone number of all interested parties, if any, including but not limited to, all existing Users of the units of infrastructure occupied by, or proposed to be occupied by, the appellant;
 - (c) The decision being appealed;
 - (d) The date of the decision being appealed; and

- (e) The basis of the appeal including a concise statement setting forth the reasons the appellant believes it was wrongfully denied Attachment rights or its Attachment rights were wrongfully terminated.
- (2) Upon receipt of a notice of appeal, the Director of the PWD shall schedule a public hearing before the City Council on the appeal, and shall notify the appellant and all interested parties of the time and date thereof by first class mail at least ten days prior to the date of the hearing. Notice of the hearing shall also be published in a newspaper of general circulation in the City before the 15th day before the date of the hearing. A public hearing may be postponed or continued in accordance with the provisions of the City Code.
- (3) The appellant has the burden of establishing that the decision being appealed was wrong.
- (4) Before opening the hearing, preliminary issues raised by the parties, such as a request for postponement or continuance, or questions of standing to bring an appeal shall be decided. The public hearing shall proceed as follows:
 - (a) A report from the Director of the PWD or appropriate City staff;
 - (b) Presentation by the appellant;
 - (c) Comment by any interested parties supporting the appeal; or
 - (d) Comment by any interested parties opposing the appeal.
- (5) The City Council shall have and may exercise all of the powers of the official whose decision is being appealed. The decision being appealed may be approved or denied in whole or in part, or may be modified. A decision on an appeal of the denial of Attachment rights shall be made in accordance with findings applying the grounds for denial in §10.905(C). A decision on an appeal of the termination of Attachment rights shall be made in accordance with findings applying the grounds for termination in §10.905(E)(6) and §10.906(C).

SECTION 10.1009 UNAUTHORIZED ATTACHMENTS UNLAWFUL

- (1) It shall be unlawful for any person to knowingly affix, install, place, attach, maintain, or fail to remove upon demand, any Attachment to City-owned Utility Infrastructure that has not been authorized by the City in accordance with the terms of this Chapter.
- (2) It shall be unlawful for any person to use an Attachment on City-owned Utility Infrastructure to provide services not authorized by a City franchise, license or contract.
- (3) Each unauthorized Attachment or use shall be deemed to be a distinct and separate offense. Each day a violation of this chapter continues shall constitute a distinct and separate offense.

- (4) The violation of any provision of this chapter shall be unlawful and a misdemeanor offense. The penalty for any violation of this chapter shall be as provided in §1.1500 Round Rock City Code, except that the maximum fine for a violation shall be \$100.00 per Attachment per day plus court costs and fees.

(Ordinance No. G-00-11-21-9B1 of November 21, 2000)